

---

# Aide-de-Camp's Library



सत्यमेव जयते

**Rashtrapati Bhavan  
New Delhi**

**Accn. No.** 68

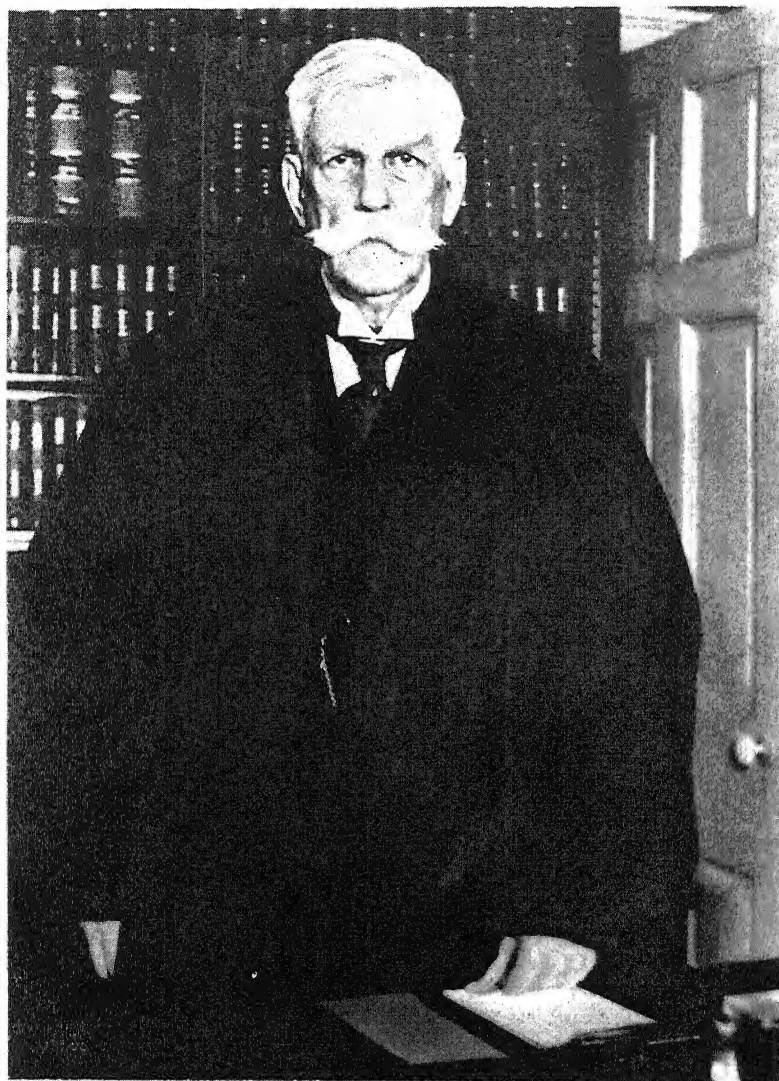
**Call No.** I(6) - T

\_\_\_\_\_





# MODERN ELOQUENCE



*Brown Brothers Photo*

OLIVER WENDELL HOLMES, JUSTICE OF THE UNITED  
STATES SUPREME COURT AND FAMOUS SON OF  
THE POET, OLIVER WENDELL HOLMES

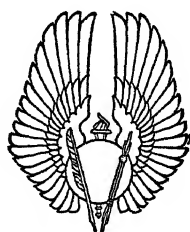
# MODERN ELOQUENCE

*A Library of the World's  
Best Spoken Thought*

EDITED BY  
ASHLEY H. THORNDIKE

REVISED

---



---

P. F. COLLIER & SON CORPORATION  
NEW YORK

# MODERN ELOQUENCE

## IN FIFTEEN VOLUMES

---

*The outstanding After-Dinner Speeches, Lectures and Addresses of Modern Times, by the most eminent speakers of America and Europe.*

VOLUMES I • II • III

AFTER-DINNER SPEECHES

VOLUMES IV • V • VI

BUSINESS • INDUSTRY  
PROFESSIONS

VOLUMES VII • VIII • IX

PUBLIC AFFAIRS

*Literary • Educational • Government • Citizenship  
Lives of Great Men*

VOLUMES X • XI • XII

HISTORICAL MASTERPIECES

*European • American • World War*

VOLUME XIII

FAMOUS LECTURES

*Humorous • Inspirational*

VOLUME XIV

ANECDOTES • EPIGRAMS

VOLUME XV

PUBLIC SPEAKING

*Debates*

INDEX • SUGGESTED READINGS

*Introductory Essays by Eminent Authorities giving a Practical Course of Instruction on the Important Phases of Public Speaking*

# MODERN ELOQUENCE

VOLUME VI

---

*Business · Industry · Professions*

PROFESSIONAL ADDRESSES

*Edited by*

ASHLEY H. THORNDIKE

*Professor of English, Columbia University*

*Revised by*

ADAM WARD

NEW YORK

---

P. F. COLLIER & SON  
CORPORATION

Copyright, 1941  
*By* P. F. COLLIER & SON CORPORATION  
Copyright, 1936  
*By* P. F. COLLIER & SON CORPORATION  
Copyright, 1928  
*By* MODERN ELOQUENCE CORPORATION

---

Entered at Stationers' Hall, London  
All rights reserved

---

Previous Copyrights  
1925, 1914, 1900

TS

MANUFACTURED IN THE U.S.A.

# CONTENTS

	PAGE
INTRODUCTION: The Presiding Officer	
NICHOLAS MURRAY BUTLER . . . . .	xiii
ALLEN, FLORENCE ELLINWOOD	
Women and World Peace . . . . .	I
ARLISS, GEORGE	
A Curtain Speech . . . . .	12
ASTOR, LADY	
Women in Politics . . . . .	14
BARKER, LEWELLYS FRANKLIN	
The Wider Influence of the Physician . . . . .	19
BRENT, CHARLES HENRY	
The Call to the Church to Develop a Christian Inter- national Life . . . . .	25
CARDOZO, BENJAMIN NATHAN	
Modern Trends in the Study and Treatment of the Law	34
DANA, CHARLES ANDERSON	
Journalism . . . . .	47
DANA, JOHN COTTON	
Mere Words . . . . .	59
DARLINGTON, THOMAS	
Our Association . . . . .	67
DARROW, CLARENCE	
A Plea for Mercy . . . . .	80
DAVIS, JOHN WILLIAM	
Our Brethren Overseas . . . . .	86
EMERSON, RALPH WALDO	
The American Scholar . . . . .	104
FARRAND, LIVINGSTON	
The Work of a Great Physician . . . . .	123

	PAGE
FOSDICK, HARRY EMERSON	
A Christian Conscience About War . . . . .	126
FREEMAN, JAMES EDWARD	
A Bishop's Charge . . . . .	137
GILBERT, CASS	
Sir Christopher Wren . . . . .	148
GILDERSLEEVE, BASIL LANNEAU	
A Teacher to His Pupils . . . . .	157
HAMPDEN, WALTER	
On Receiving a Gold Medal . . . . .	160
HILLIS, NEWELL DWIGHT	
The Pulpit in Modern Life . . . . .	162
HOLMES, OLIVER WENDELL	
Practical Ethics of the Physician . . . . .	175
HOLMES, OLIVER WENDELL, JR.	
The Use of Law Schools . . . . .	189
HULBERT, MURRAY	
Inventions and Inventors . . . . .	199
HUME, F. CHARLES, JR.	
To Young Lawyers. . . . .	206
INGE, WILLIAM RALPH	
Faith and Reason . . . . .	213
LANG, ANDREW	
How to Fail in Literature . . . . .	225
LITTLE, ARTHUR DEHON	
The Fifth Estate . . . . .	244
McCONNELL, FRANCIS JOHN	
Giants and Grasshoppers . . . . .	261
MANNING, WILLIAM THOMAS	
The Vision of Unity . . . . .	269
MARCONI, GUGLIELMO	
The Progress of Wireless Telegraphy . . . . .	274

# CONTENTS

xi

	PAGE
MAYER, JULIUS M.	
The Court and the Law . . . . .	281
OSLER, SIR WILLIAM	
Farewell to the Medical Profession of America . .	285
PERRY, JOHN HOLLIDAY	
Newspaper Law . . . . .	290
POUND, ROSCOE	
The Task of the American Lawyer . . . . .	308
ROBINSON, JOSEPH T.	
A Strange Reversal of Principles . . . . .	326
SMITH, ALFRED E.	
The Facts in the Case . . . . .	338
STEUER, MAX D.	
Cross-Examination, Is It an Art or an Artifice? . .	353
STONE, HARLAN FISKE	
The Training of Lawyers . . . . .	372
STONE, MELVILLE ELIJAH	
The Revolution of 1893 . . . . .	382
THOMAS, AUGUSTUS	
The Gold Medal for Drama . . . . .	389
THOMAS, NORMAN	
The New Deal and Socialism . . . . .	391
VINCENT, GEORGE EDGAR	
The Doctor and the Changing Order . . . . .	404
WHITE, EDWARD DOUGLAS	
The Supreme Court . . . . .	413
WHITE, WILLIAM ALLEN	
The Country Newspaper . . . . .	421
WICKERSHAM, GEORGE WOODWARD	
The American Law Institute . . . . .	430
WIGMORE, JOHN HENRY	
Enlistment in the Christian Ministry . . . . .	438

	PAGE
WILBUR, RAY LYMAN	
The Prolongation of Life . . . . . [a] [a] [a] [a] [a] .	440
WIRTH, FRED A.	
The Four-Minute Man . . . . . [a] [a] [a] .	443
ZINSSER, HANS	
A Scientist's View of the Medical Center . . . [a] [a] .	445

# INTRODUCTION

## THE PRESIDING OFFICER

By NICHOLAS MURRAY BUTLER

WHILE anyone of good intelligence and quick wit may readily become an effective presiding officer, really great presiding officers are born and not made. Within the memory of men now living three exceptionally distinguished and competent presiding officers have been developed in the political life of the United States. The first is James G. Blaine, of Maine, who was Speaker of the House of Representatives in the 41st, the 42nd, and the 43rd Congresses. The second is Thomas B. Reed, of Maine, who was Speaker of the House of Representatives in the 51st, the 54th, and the 55th Congresses. The third is Garret A. Hobart, of New Jersey, who after serving as Speaker of the New Jersey Assembly and President of the New Jersey Senate, presided over the Senate of the 56th Congress as Vice President of the United States. These three men left behind them a record of capacity and distinction that has not since been equaled by anyone.

The presiding officer is dependent for his success, in very large measure, upon his physical attributes. It is of great advantage to have a distinguished bearing, a firm and clear voice, a decided manner, a quick wit and a sense of humor. The presiding officer must really preside. That is to say, he must be not simply a moderator who sits in the chair and settles occasional differences or disputes while the business goes on without his guidance, but he must shape and control the transaction of business and see to it that everything is done in an orderly, a legal, and a dignified way. He must, of course, be familiar with at least the elements of parliamentary law and, as his experience grows, he will gain knowledge of many

of the finer and less familiar points that are sometimes raised in the course of a heated controversy or debate. It is, however, interesting to observe how rarely any unusual motion or point of order is made in a parliamentary body. Ninety-nine times out of a hundred a calendar of business will be disposed of in an almost routine fashion and without any appeal to the chair for decision as to the precedence of motions or as to the order of business.

Since the purpose of any parliamentary body is to transact business, and since the object of having a presiding officer is to make sure that this business is transacted in orderly fashion and without undue delay, as well as in strict accordance with the rules governing the particular assembly, it is obvious that the functions of the presiding officer are those of leadership. He cannot be content with acting merely as an impartial observer; he must so act as to get things done and must exert his influence and exercise his authority to that end.

When a proposal is before a parliamentary body, any motion which aims to alter or improve its form takes precedence of any motion to dispose finally of the matter under consideration. That is to say, it is orderly procedure for the parliamentary body to shape to its liking the pending proposal before it votes finally upon it. The form in which a given proposal is first introduced may be warmly approved by some while not acceptable to others. The dissentients may be quite ready, however, to accept the proposal if its statement can be in some degree altered or amended. Therefore, it is reasonable and proper that the assembly should first endeavor to perfect the pending proposal and then, when it is perfected, vote finally upon it.

There are various ways of preventing favorable action upon a pending motion without actually voting it down. It may be referred to a committee or it may be laid upon the table, or action upon it may be postponed to a time fixed, or indefinitely. When the last named motion prevails, it is equivalent to defeating the proposal. Any manual of parliamentary procedure will give information as to the precedence of these various motions. The presiding officer must know this precedence and must be sure that it is insisted upon in submitting

various motions to the judgment of the assembly. He must also remember that, except in the Senate of the United States or elsewhere when the rules expressly provide otherwise, a motion to lay upon the table a subsidiary motion carries with it the main subject under consideration. That is to say, with the exceptions named, if there is a pending motion to which an amendment has been offered, the success of a motion to lay the amendment upon the table carries with it the main question and for the time being removes the whole matter from the consideration of the assembly. Frequently one familiar with the intricacies of parliamentary law takes advantage of this fact to make his view prevail over that of those who are not so familiar as he with the intricacies of parliamentary law.

One of the chief sources of a presiding officer's influence is found in his power of recognition. If two or more members of an assembly rise at once, it is the privilege and the duty of the presiding officer to indicate which is to be recognized to speak. Knowing, as he often does, the several points of view of those who are claiming the floor, he may so exert his influence as, through the recognition of a particular man, to bring before the assembly first that proposal or motion which the presiding officer himself would most like to have considered. Many interesting tales might be told of the apparent inability of presiding officers in political assemblies, sharply divided on partisan lines, to see any but members of their own party or group. The power of recognition is particularly important if the assembly is to adjourn or disband at a fixed day or hour, for then it is virtually in the power of the presiding officer to determine what business shall be considered and what business shall be passed over.

A competent presiding officer will never permit an assembly to vote without having stated with definiteness and perfect clearness the precise proposal upon which a judgment is to be had. This statement by the presiding officer is the very last step to be taken before a vote is asked, and nothing should ever be permitted to intervene between this statement and the taking of the vote itself.

It is also to be borne in mind that after a vote has been ordered or a roll call begun, no business of any kind is in order

until the voting or roll call has been completed and the result announced. In certain cases and if the rules of an assembly so provide, a member may, without debate, offer an explanation of his vote during a roll call, but this is not usual and in many cases is not even permitted. It is plain that if, under the guise of explaining votes, general debate could be instituted while a roll is being called, the proceedings of the assembly might be thrown into complete confusion. It is the business of the presiding officer to see that nothing of the sort is allowed to happen.

It is not in order for any assembly to attempt to transact business until a quorum of its membership, as determined by its rules or by the law governing its constitution, is present. It is the prerogative of the presiding officer to ascertain whether a quorum is present and so to declare. One of the greatest advances in parliamentary procedure in the history of the American Congress was made when, in the 51st Congress, Speaker Reed insisted upon his right to ascertain and declare whether or not a quorum of the House of Representatives was present, and when his ruling was upheld by a majority of that body. Those who held a contrary view insisted that the Speaker could not, in their language, "count a quorum," but must await the result of a roll call to ascertain whether or not a quorum of the membership was present. By the simple device of not answering to their names when called, a number of members of the House of Representatives endeavored to prevent the transaction of public business on the ground that a quorum was not present. Speaker Reed took the common sense attitude, that no representative could be physically present and constructively absent at one and the same time. When the roll was called, he therefore took note of those members of the House of Representatives whom he recognized and saw in their places, although they did not answer to their names when called. At the conclusion of the roll call Speaker Reed announced that on the basis of those voting and those who were physically present and not voting, a quorum of the House of Representatives was in the Hall and that the House was ready and competent to transact public business. The uproar that followed was violent and almost revolutionary in some of its expressions.

but good sense finally prevailed and Speaker Reed's procedure and ruling passed quickly into generally accepted parliamentary law. Indeed, it is difficult to see how any other course was possible. It is, therefore, competent for a presiding officer of any assembly to do as Speaker Reed did in the 51st Congress and himself ascertain and declare whether or not a quorum is present for the transaction of business. He is not restricted to the result of a roll call if he observes members of the assembly to be present and not voting.

Under ordinary circumstances and in many cases the continuous presence of a quorum is not insisted upon. After an assembly has begun its business, its members may come and go as they will, and frequently the meeting is left without a quorum. Unless, however, the point is definitely raised so that it must be ruled upon by the presiding officer, business, usually of a routine character, goes forward without interruption. This happens constantly in the United States Senate and in the House of Representatives, often when matters of large public concern are under consideration by those bodies.

Under the authority of general parliamentary law, a presiding officer has the right to require a speaker to address himself to the question before the assembly. The failure to do this on the part of the presiding officers of the United States Senate has led to one of the greatest abuses in American political life. If senators were required by the chair, as they may be and should be, to confine their remarks to the question under discussion, there would be no need to agitate for a rule to close debate in the Senate. The abuse of senatorial privilege by the constant introduction of extraneous and irrelevant matter, by reading long citations from books and newspapers, and by introducing portentous columns of statistics, has long since become a public nuisance. It could be stopped in an hour if the presiding officer of the Senate would call to order any senator who attempted to hold the floor without addressing his remarks to the subject under consideration. Even if the senator so called to order should appeal from the decision of the chair, public opinion would sooner or later require the Senate to sustain the chair if, indeed, the chair himself did not refuse to entertain the appeal. Senatorial or parliamentary courtesy is

stretched to the breaking point when a small group of men, or even one man, is permitted to delay or make impossible the transaction of public business by holding the floor simply for purposes of obstruction and delay, and without addressing himself with honest purpose to the question before the body for determination.

It is sometimes said that a motion to adjourn is always in order. This, however, is not quite true. A motion to adjourn may not be made after a roll call or voting has begun and before the result has been announced. If a motion to adjourn is made and defeated, it may not be renewed until after some substantive business has been transacted by the assembly. Otherwise a motion to adjourn may be offered at any time and, not being debatable, must at once be put to the assembly by the presiding officer.

It is always to be borne in mind that an assembly is superior to any of its agencies or creatures, whether committees or individuals, and that an assembly may do anything it chooses by unanimous consent. It is usual to do a large amount of preparatory work through the agency of committees, since these small groups can meet frequently for the examination and study of some definite question or class of questions. It is only natural that the report of a committee should carry great weight with the assembly that created it. Indeed, the favorable report of a committee is rarely overturned or set aside, although its recommendations may, in some instances, be modified. If a committee is divided, there may be submitted, in addition to the report of the majority, a dissenting or minority report. The appropriate motion to be made by supporters of the minority report is that the report of the minority be substituted for that of the majority. Upon this motion discussion of the whole subject is in order. When a vote is taken, if the minority report is substituted for that of the majority, then a formal motion to approve the report as substituted is put and carried. If, on the other hand, the motion to substitute the report of the minority is lost, then it still remains for the assembly to determine whether it will approve the report of the majority as submitted or with amendments.

It is not necessary to move the acceptance of the report of a committee. As a matter of courtesy the report of any committee is accepted when presented to the assembly whose committee it is. According as the rules of a given assembly provide, a report, when submitted, either goes to a calendar of business for later consideration when reached in its order or it is taken up for immediate consideration under the terms of a resolution to adopt the report of the committee and approve its recommendations. An assembly may, if it so choose, refer back to the report of a committee for further consideration and revision. The effect of such a motion, if it prevails, is to remove the whole subject from the immediate consideration of the assembly.

It is usual, in the United States, to provide that whatever points of parliamentary procedure are not covered specifically by the rules of a given assembly, are to be determined in accordance with the rules of the more numerous branch of the legislature, whether state or national. The rules of the House of Representatives, for example, are numerous and involved, but for the most part they relate only to the business of that body itself. A few general principles which underlie and condition those rules are all that need be appealed to in the conduct of the business of another parliamentary body. On one important point there is almost universal misapprehension, and that is as to the necessity that a second be had for any given motion before it can be received and put to the assembly. No second is necessary save in the case of a motion for the previous question. Any other motion, no matter what its character, is entitled to be received and put to an assembly as a matter of courtesy to its mover, unless the rules of that assembly specifically provide otherwise.

The motion for the previous question is not often made but its effect, when made, is to cut off debate in order that the presiding officer may ask the assembly to decide, Shall the main question now be put? If the assembly votes in the affirmative, either by a majority or by a two-thirds vote, according as its rules provide, then all further debate comes to an end and the main question is put for immediate decision. If, however, the motion for the previous question fails, then the

debate which was interrupted by the motion proceeds in regular order.

One of the most difficult and embarrassing duties of a presiding officer is to enforce whatever time limitations are imposed upon speakers by the rules. In the House of Representatives the rules as to time limitation are so explicit and so well understood that the habit of enforcing them strictly is firmly established, and no representative feels aggrieved when told by the presiding officer that his time has expired. In some other types of assembly, however, this fortunate result does not follow, and frequently a speaker is very much provoked at being told that the limit of time allotted him by the rules has been reached. In such cases it is necessary that the presiding officer be firm as well as courteous. As a matter of fact, debate under time limitation is often much sharper, more direct and more effective than debate without any time control whatsoever. Debate in the House of Representatives under the five-minute rule is frequently most instructive and illuminating. Speaker Reed, to whom reference has already been made, shone particularly in this respect when he was leader of the minority on the floor of the House of Representatives in the 52nd and 53rd Congresses.

If one wishes to make a thorough study of parliamentary law and practice, he may well begin with Sir T. Erskine May's *Parliamentary Practice*, which first appeared in 1844 and a twelfth edition of which was issued in 1917. This classic work traces in detail the history of the organization and practice of Parliament from which all parliamentary procedure in English speaking countries takes its origin. Many curious and highly interesting facts are marshaled by the author in his scholarly exposition of what is, to one who engages in public affairs, a fascinating study.

American parliamentary procedure and all later American books upon the subject uniformly rest upon the *Manual of Parliamentary Practice* for the use of the Senate of the United States that was prepared by Thomas Jefferson in 1800. This is known and cited as *Jefferson's Manual* and even to-day will repay careful study.

A presiding officer, if he is to be successful, must add to

knowledge of parliamentary business and parliamentary law those personal characteristics which gain for him the confidence of his associates, however sharply they may differ from him on matters of business. He must be patient, courteous, kindly and, above all, scrupulously fair. Every opportunity for which the rules of an assembly provide must be given to bring before that body the views and proposals of any one of its members. Questions at issue must be stated with definiteness, with clearness and with precision, and announcements of the result of any given vote must be accurate and decisive. When the presiding officer puts a question to the assembly which is to be settled by a *viva voce* vote, he must, if there is any doubt whatever as to which side has the preponderant number of voices, say, "The ayes appear to have it" or "The noes appear to have it," as the case may be, and then await a challenge to have a definite count made. If no such challenge is offered, then the presiding officer announces definitely and finally, "The ayes have it" or "The noes have it" and the matter is closed.

A presiding officer who enjoys the confidence of his associates and who understands the business of the body over which he presides has an enviable and fortunate position. Unhappy, indeed, is the presiding officer who can neither command the confidence of his colleagues nor guide the procedure of the assembly of which he is a member.

ADDRESSES  
PROFESSIONAL



# FLORENCE ELLINWOOD ALLEN

## WOMEN AND WORLD PEACE

Judge Florence Allen is one of the most distinguished members of the legal profession. She graduated from Western Reserve University in 1904, and from the law school of New York University in 1913. She was assistant county prosecutor in Cuyahoga County, Ohio, in 1919-1920, and was elected judge of the Court of Common Pleas in 1921, and judge of the Supreme Court of Ohio in 1923, the first woman to hold a seat in this court. Judge Allen is a vigorous speaker in behalf of various public causes. The address which follows was delivered at the Conference on Causes and Cures of War, in Washington, D. C., January, 1925. Senator Ransdell of Louisiana had the entire speech read into the Congressional record.

MEMBERS OF THE PARTICIPATING ORGANIZATIONS AND FRIENDS:  
While I listened to the splendid expositions by the distinguished military officers, I have been wishing that I had the force and eloquence to take advantage of this opportunity. I have before me, delegates from such splendid groups, delegates from the American Association of University Women, those women who have had the training that a hundred years ago was denied to women the world over; delegates from the Council of Women for Home Missions and the Federation of Women's Boards of Foreign Missions of North America, the women who believe that the ethics and philosophy of Christ ought to be put into practice in our daily life [applause]; from the General Federation of Women's Clubs, that splendid group which links together so many organizations with such a vast field of cultural and civil activities; from the National Board of the Young Women's Christian Associations which beneficently directs the activity of the young womanhood of the entire Nation; from the National Council of Jewish Women, with such

a heritage of law-making behind them that they well may be proud and we may well be proud to have them affiliated with us in this gathering; from the National League of Women Voters, a league whose membership ramifies over the entire country, a league which believes "every woman an intelligent voter," and thereby every man shall be made a more intelligent voter [applause]; from the National Woman's Christian Temperance Union, that fighting group which first said that the evil of the open saloon must go in America; and last but not least, from the National Women's Trade Union League, the group of women who do work with their hands so well competing with labor in the open market that they force the world to give them an honest living. [Applause.]

When we think of the ramifications of these organizations, their territorial extent, the numbers which they represent, can we underestimate the power which resides in this particular group? And, more than that, it is significant that this is a group of women, not because the war problem is primarily a woman's problem. Women suffer hideously in war but so do men. Every boy who lost his life in the World War had the greatest human right denied him. We find these truths to be self-evident—that all men are endowed by their Creator with certain inalienable rights, rights that cannot be taken away, rights that cannot be given away—among them the right to life, liberty, and the pursuit of happiness. [Applause.]

Did you ever think what a deprivation of the right to life war is?

And we are here as a group to make a new declaration of independence, to say that henceforth we will be independent of the curse of war; that we hereby demand that the tyranny of the most colossal evil that the world has ever seen shall cease. And, my friends, it is significant that this is a woman's gathering, because while men suffer with women in war, and while men work with women to do away with war, as the presence of these distinguished speakers evidences, the fact does remain that woman's task is peculiar with regard to the abolition of war.

Women have to teach the human race that ethical standards can be set up and maintained between nations, as well as be-

tween individuals. [Applause.] Women have to teach the coming generations that the rules of right and wrong can be applied to every group; that there is no situation in which the law of justice can not and does not function if applied. Women have to teach the race that this thing is not impossible; that law can be substituted for the use of armed force in the settlement of international difficulties. And in the long run, my friends, over and above and behind and underneath all of the plans which will be urged here for the cures of war, and I undoubtedly am in accord with the spirit of all of them and with many of their features, the fact remains that you and the women of the world who believe that this evil can and must be abolished, have to go out to change the convictions of men's minds that war is legal and sanctioned and necessary, and that is primarily a task for women.

And then, too, women have another peculiar responsibility in this matter, because they have within them that thing which Kidd calls the emotion of the ideal, that long-range power of looking far off into the future; that power of working for something which they see not, something which they only hope and dream will come to pass. Thousands and thousands of women in this country joined the ranks of those who demanded that liberty should be given to women, as well as to men, and died before we ever had the vote. That spirit within women comes, perhaps, partly from our physical nature and partly from the long, sad training of the ages which has compelled us to achieve a masterly self-control. [Applause.] That power makes it possible for us to sacrifice and renounce and work for something which will not immediately be accomplished, and, of course, my friends, in spite of advances which have been made in our lifetime in the peace movement, you and I know that it will be a long, hard progress, and that years and centuries will go by before the peace fabric will finally reach full completion.

Now, this emotion of the ideal present in women makes us perhaps see with a certain clearness certain fundamental facts, because we are looking forward to the attainment of the final consummation. We look forward to a great thing; we look forward to the abolition of war itself, and nothing less. Because

of that perhaps we see more clearly certain practical aspects in the situation, and we wonder, as women, how it comes that government spends so little money and such little effort for making peace, and so much money and so much effort for making war. We say to ourselves that if centuries ago the finest minds of the Nation had been gathered together to develop peace, instead of to keep war machinery well oiled, perhaps by now the peace fabric would have been built. We say to ourselves that if in 1500 A.D. the great energies of the races had been poured into substituting law for war, the World War would never have been fought. [Applause.] And then we say, too, that we demand substantial steps toward peace. We care little in the mass just how it is done in detail. Women are not particular as to who does it; they are not particular as to who gets the honor of the great achievement. They are not particular as to the name by which the thing is called, but women want war branded and made disreputable; they want its use made criminal; they want the sanction taken away from war and adjudication substituted for war. They want, in a word, law not war. [Applause.]

And just because we have within ourselves this great power, this emotion of the ideal which is essential toward achieving causes as colossal as this, we confront particular dangers. It has been said here in America since the women got the vote that we ought to be used mainly as a channel for engendering enthusiasm. [Laughter.] My friends, creating enthusiasm is worthy for certain objects, but let us by all means scrutinize the objects. Let not these groups, let not these fine groups act as cheer leaders in a game in which they do nothing but the cheering.

And we face other pitfalls. I shall speak particularly of one this afternoon. It contains correlative dangers. We face the danger of thinking that we can help to do away with war without actual knowledge, and we face the correlative danger of thinking that we can be of no use in eliminating war unless we are experts. I shall first speak of the need of actual knowledge. We must not emotionalize. Every step we take; every measure we demand must be based upon our knowledge of actual facts. Let me illustrate very simply with regard to one

subject which is to be considered by you in this conference. I speak of the codification of international law. Now, some people think that the codification of international law would have great weight in doing away with war because they think that if law could be gathered together governing the conduct of nations, then we would have laid the groundwork for orderly adjudication of international disputes. And, my friends, if codify means to enact, then I agree that the codification of international law is very necessary; but codification in its usual sense, in the sense in which lawyers generally use it, does not mean to enact law. It means to make a compilation, to make an orderly, systematic assemblage of laws already existing. But there is practically no international law existing enforced by the courts with regard to the conduct of nations. Take the latest books on international law—Scott or Stowell or Munro—and look through those textbooks in which courts have enforced international law, and you will look in vain for any case which has held any nation guilty of the crime of making deliberate, premeditated, aggressive war. You will look in vain for any case which finds any nation guilty of stealing, or guilty of extortion. Because of my legal experience I perhaps particularly see the need of such law. I have presided in a number of murder trials and sometimes I ask myself, how I ever could have impaneled a jury in a murder case, or how the jury could have convicted the prisoner or how the prisoner could have been sentenced by the court if there had been no law making murder a crime. And I wish to explain here very simply what to me the phrase “outlawry of war” means. It does not mean that the enactment of law making war a crime will of itself prevent war. I am one of those people who believe in securing peace by all means, and I do not pin my faith to one method only; but, my friends, how can we enforce a law before we declare the law? The first step in law enforcement is the declaration of the law. And, perhaps, I might put it simply in an illustration like this: Suppose that your child did something that you did not like, and you wanted to stop his doing it; suppose that Johnnie tells a lie; do you say to him: “Johnnie, all fine little boys tell lies, but you know I, myself, personally, do not like to have you do it, so

please do not do it in the future." Is that what you say? Or suppose that Mary takes a piece of pie right out of the pie that is saved for the family supper. I used to do that when I was a child; I still want to. Do you say to her: "Mary, all little girls with spunk and initiative go to the pantry and take the thing that was saved for the family, but just for my sake I wish you would not do that in the future." Is that what you would say? Of course not. You say to Johnnie: "All straight, upstanding little boys are honest and truthful; they do not tell lies, and I want my boy to be honest and truthful." And you say to Mary: "It is selfish to take the things that were for the whole family; it is selfish and I don't want my little girl to be selfish." You lay down a moral basis upon which you begin to enforce moral law. And, my friends, again I repeat, I am not one of those who believe that the mere enactment of law, making the making of war a crime, would, of itself, stop war; but I am at a loss to understand how the World Court or the Hague Court or any tribunal which is constituted can brand the making of war as illegal and disreputable so long as we recognize and tolerate and sanction the making of war. [Applause.] In other words, in addition to machinery for enforcement, in addition to the World Court, in addition to some kind of permanent, continuously operating international organization which must exist, the world needs to declare moral law as applicable between the nations. The world needs to lay down a "Ten Commandments" between the nations: "Thou shalt not war; thou shalt not steal; thou shalt not oppress."

And by whom can this law be laid down? It can be laid down by treaty; it can be laid down by conference; it can be laid down by the League of Nations. A beginning has been made in the protocol at Geneva, with its declaration of the outlawry of war. A beginning has been made in the Borah resolution pending in the senate for the outlawry of war. These declarations have not as yet been accepted and enacted, but they are a very important start.

Other laws must follow, the law enacting crimes between nations just as those crimes exist between individuals. Suppose, for instance, you were to cut out of the law of New York State, or Ohio, or California, the laws making murder and arson,

rape, and burglary crimes, the whole bottom would have dropped out of your moral and social fabric; you would have lost the very basis upon which all law is built. The first step in law enforcement is to declare law. Now this Ten Commandments could be declared by the Hague Court or by the World Court, if these tribunals could lay down law. And, my friends, what I am about to say to you I want you in no sense to construe as a criticism upon arbitration or as opposition to entering the World Court. I wish the world would employ arbitration to the last possible degree, and I favor our entering the World Court but neither a court of arbitration nor the World Court as now constituted can lay down law.

A court lays down law in quite a simple way. It has a given case before it, and upon the facts of that case it enunciates legal and moral principles. When another case based upon the same kind of facts comes before the court, the court applies the legal and moral principle laid down in the first case to the second case exactly as if that law had been passed by the legislature.

Let me illustrate by a case with which we are familiar in Ohio. We had what we called the East Cleveland Municipal Suffrage case before we got the vote. The city of East Cleveland had a home rule charter and it gave the women the vote. We went to the Supreme Court of Ohio, upon the legality of our enfranchisement in municipal matters, and the Supreme Court said that a home rule city in Ohio could give women the right to vote in city elections, and the women of East Cleveland secured the municipal vote. Shortly after that the women of Columbus induced their Charter Commission to give them a vote in the Columbus charter, and the charter was submitted to the electors and carried. Now, if the Supreme Court of Ohio had not been able to lay down law the women of Columbus would have had to apply again to the Supreme Court to see whether they had a right to vote in Columbus elections. But the Supreme Court had held in the first case: "A charter city has the right to give women the power to vote in city elections." And so the women of Columbus did not have to try their case because law was made by the Supreme Court when it laid down legal principles in the East Cleveland case.

Now, in an arbitration moral principle is not laid down. Arbitration simply decides the case. It decides who wins, but not who is right or wrong. And as to the World Court, it is bound by this provision in the statute. Article 59 of the statute which creates the court states as follows: "The decision of the court has no binding force except between the parties and in respect of that particular case."

And so, my friends, the World Court cannot lay down law. I believe in adhering to the World Court because it can interpret law; because it can adjudicate cases which come within its jurisdiction, but we shall have to have law, not codified but enacted, declaring the primary crimes between nations before we can properly go forward to enforce that law. Sometimes when I think of the thing that we have asked of the World Court, and the Hague Court, and the League of Nations, asking them to prevent war, when up to this time in history the whole so-called Christian world, the whole civilized world tolerated and sanctioned war, it seems to me that we have been asking an impossible thing, because the sanction must be taken away from war before we can enforce provisions against war.

And now, the women of this country demand that this be done; they demand that war shall no longer be sanctioned; they demand that the use of law as a means of settling international controversies be adopted.

And some people say this is impossible. Why, my friends, human history shows that this is the next step in our social development. There was such a thing as war between individuals. There was private warfare between individuals; that private warfare has been abolished. There was warfare to determine legal questions. Men used to go out and fight to decide questions of titles to land in what was called the "wager of battle." That has been abolished, and the duel, which clung so long and so persistently—that has gone with the advance of civilization. Shall we say that men, men who swim beneath the sea in boats and who climb the sky in airplanes, are incapable of applying to themselves in groups the same law which they applied to themselves as individuals?

Now, I shall speak to you of another danger which we face that is, the danger that we shall think we know too little to

assist in solving this problem. I was interested to read the other day in a statement of a speech made by a distinguished officer for whom I have the highest personal regard, that he said that pacifism in the United States was rampant because of the women's insatiable desire to mix in things which they did not understand. And he said that we did not understand war, because war is a question of mathematics and science. [Laughter.] Of course, I do not know whether this distinguished officer said what is ascribed to him, but the fact does remain that that view exists. I grant that science goes into the making of war. I could not calculate the trigonometric formulæ of our great modern guns; moreover, very few men could. [Laughter.] Science, of course, governs all of the law of chemical explosions; science governs military tactics; science must always come into play when war is made; but the question of keeping out of war, the question of maintaining peace, and the question of establishing peace is not a question of science and mathematics; it is a question of establishing moral principles between the nations as law, enforceable as law, and that is not a question of the curve or the momentum or the velocity of a gunshot.

And then, on the other hand, there are some people who think we cannot help to establish peace because there is so much to know about the peace question. And, there is much to know; there is much to know about the Dawes plan; there is much to know about the whole question; and if we are really to understand the workings of the League of Nations, our treaty relations in the Senate, the World Court, and the workings of the Pan-American Union, we shall need much more expert knowledge than we have. I go so far as to say that no woman's club or organization in this country ought to function longer without having one member, a committee of one, to read the League of Nations' documents, to keep in touch with things that are going on in the Senate, to be posted upon our relations, particularly with South America and Central America and the Caribbean, and to report back to her own club.

But, after all, the great basic policies which underlie the making of peace are not difficult of comprehension. Any ordinarily intelligent person can understand them. I will even say

that never until in this country the ordinary person, the non-expert voter, is taken into the confidence of the peace expert, never until that time can America take her place among the leaders in the peace movement of the world. [Applause.]

I remember there was a great meeting held once at the Masonic Hall in Cleveland at which Mrs. Catt spoke. Will Irwin had told us what would happen to the world in the next world war; that war would be directed against the whole civilian population; how the advance of chemical warfare would make the next war something undreamed of. Mrs. Catt had some scholarly address to make, and instead of making it she threw down her manuscript and came down into the center of the stage and called upon the women of the United States to end war. That call we are still hearing. I suppose I have quoted one hundred times something which she said that night. She said: "The women in this room can do this thing; the women in this room can do this thing." And when she said that she said something truer than she knew. She said something which she knew from her own experience to be true for she had seen just such a movement grow from a meeting in a little room; she had seen the woman's suffrage movement start when women had no training, no education, no money, nothing but the inherent rightness of their cause; she had seen it sweep over the whole civilized world in her lifetime. The women in this room can do this thing; the women in this room can do anything which is right and just, my friends.

Think of the colossal absurdity that we should have lived to this year of our Lord, 1925, and the law for nations during all this time until very recently has been, "The State can do no wrong." We have to change that law; we have to write new law; we have to say, "The State shall do no wrong."

We have great odds against us; we have great interests and great powers against us; we have something, on the other hand, to inspire us. The boys, you know, went out and met six times their number in the great day of the first advance, six times their number of the crack troops of Europe, and sent them reeling back in their tracks; and, of course, they fought for a number of things, but they fought principally because they thought that that would end war. If we have any con-

ception of their sacrifice we will never let that standard fall; we will make this war the war which did end war.

Sometimes I am depressed over the international situation, but I heard something this summer which I intend to keep before me as a symbol of our hope. I know a girl, Majorie Johnson, who did war work in Italy and France and Germany. This summer she visited all of her little villages and she personally investigated and knew that this thing happened. At Montfaucon, in France, which was so shelled that it seems nothing but a remnant was left of the town when the armistice was signed, a man came one night at dusk and knocked at the door of a little cottage. A woman came to the door, and he asked if she was the woman of the house. He spoke French—a strange kind of French. She said, "Yes, I am the housewife." He said, "Perhaps you won't want to talk to me, because I am a German." She said, "Go on, monsieur." "I had a son who was killed in the war," he said, "he was killed near here and he was buried somewhere near here. I came over this morning as early as I could to hunt for his grave and I could not find it; I thought perhaps I could find some cottage where I could stay all night and go on to-morrow morning in the search, but probably you won't want me to stay under your roof because I am a German." She said, "Monsieur, I had a son who was killed in the war, killed fighting for France in self-defense; your son was killed fighting under orders, and I suppose he was killed doing what he thought was right; but shall anyone say that as between a father who lost his son in battle and a mother who has lost her son in battle, there is a gap that cannot be bridged? Come in, monsieur, and stay this night."

I do not know how many of us could rise to that height; but, my friends, the great forces of human affection, the great love of fathers and mothers for children the world over are fighting this battle. With that irresistible aid the women in this room can do this thing; they can do it because it is eternally right. There is no situation in the world in which the rules of right and wrong cannot function. There is no group in the world to which the laws of right should not apply, and you and I have to study this problem in this conference, and go out to teach the race that we will have law, not war. [Applause.]

# GEORGE ARLISS

## A CURTAIN SPEECH

Though an actor must be a master of elocution, he is not always successful in making speeches of his own. Mr. George Arliss is one of the chief ornaments of his profession and a graceful speaker when called before the curtain. He was born in 1868 in England but in recent years has acted chiefly in this country. The following curtain speech was made at the four hundredth performance of "The Green Goddess," at the Booth Theatre, in New York City.

LADIES AND GENTLEMEN :—I hope you will not think that I am deceived as to the quality and volume of the applause which brings me before the curtain. I know that it is due almost entirely to the persistent efforts of the ushers and other officers of the front of the theater. But there is a reason. This is the four hundredth performance of "The Green Goddess" in New York, and the ushers are anxious that I should break the monotony for them by coming out and acquainting you with that fact. I do not know whether they expect you to be surprised or delighted with the news. Personally I see no reason why it should concern you at all, unless it seems like the four hundredth performance, in which case I think you would be perfectly justified in going to the box office and demanding reparation. For it is the duty of the actor to have mastered the art of creating what Mr. Gillette has so aptly called "the illusion of the first time"—to create the impression that he has never spoken the lines before. I have often been asked how it is possible for us to play the same piece night after night without becoming hopelessly mechanical.

Well, of course, it would be impossible if it were not for the fact that we have a different audience at each play. No two audiences are alike. Each brings its own individual stimulus. If, for instance, you ladies and gentlemen had committed some

terrible crime and you were doomed as a punishment to come and see us play "The Green Goddess" every night for four hundred consecutive performances, I tremble to think what would be the consequence. Utter annihilation for us both, probably. Indeed, I have often wondered how it is that the ushers are not carried out one by one and placed in an ambulance bound for Bloomingdale. I suppose they get their stimulus by discovering, as time goes on, just how bad we really are and how much better they could play the parts themselves.

I am exceedingly obliged to you, ladies and gentlemen, for submitting to this uncalled for speech, and I ask permission to wish you, from us all, A Happy New Year.

# LADY ASTOR

## WOMEN IN POLITICS

Lady Astor, who was one of the famous Langhorne sisters of Virginia, before she married Viscount Astor, was the first woman to be elected to the British House of Commons. The following address, made up from newspaper reports, was given in the Town Hall, New York, on April 9, 1922. This was her first address in this country; subsequently she spoke in many cities.

I KNOW that this welcome has nothing to do with me. Ever since I entered the "Mother of Parliaments" I realized that I ceased to be a person and had become a symbol. The safe thing about being a symbol is this—you realize that you, of yourself, can do nothing, but what you symbolize gives you courage and strength and should give you wisdom. I certainly have been given courage and strength, and I won't say too much about wisdom.

My entrance into the House of Commons was not, as some thought, in the nature of a revolution. It was an evolution. It is rather interesting how it came about. My husband was the one who started me off on this downward path—from the fireside to public life. If I have helped the cause of women he is the one to thank, not me. He is a strange and a remarkable man.

First, it was strange to urge your wife to take up public life, especially as he is a most domesticated man; but the truth is that he is a born social reformer. He has avoided the pitfalls which so many well-to-do men fall into. He doesn't think that you can right wrongs with philanthropy. He realizes that one must go to the bottom of the causes of wrongs and not simply gild them up.

For eleven years, I helped my husband with his work at Plymouth—I found out the wrongs and he tried to right them—

and this combination of work was a wonderful and happy combination and I often wish that it was still going on.

However, I am not here to tell you of his work, but it is interesting in so far that it shows you how it came about that I stood for Parliament at all. Unless he had been the kind of a man he was, I don't believe that the first woman member of the oldest Parliament in the world would have come from Plymouth, and that would have been a pity. Plymouth is an ideal port to sail from or to. It has been bidding godspeed to so many voyagers. I felt that I was embarking on a voyage of faith, but when I arrived at my destination some of the honorable members looked upon me more as a pirate than a pilgrim.

A woman in the House of Commons! It was almost enough to have broken up the House. I don't blame them—it was equally hard on the woman as it was on them. A pioneer may be a picturesque figure, but they are often rather lonely ones. I must say for the House of Commons, they bore their shock with dauntless decency. No body of men could have been kinder and fairer to a "pirate" than they were. When you hear people over here trying to run down England, please remember that England was the first large country to give the vote to women and that the men of England welcomed an American born woman in the House with a fairness and a justice which, at least, this woman never will forget.

The different ones received me in different ways. I shall never forget a Scotch labor leader coming up to me, after I had been in the House a little while, and telling me that I wasn't a bit the sort of woman he thought I would be—"I'll not tell you that, but I know now that you are an ordinary, homely, kindly body," and he has proved it since by often asking my advice on domestic questions.

Then there was an Irish member who said to me, "I don't know what you are going to speak about, but I am here to back you." And the last was from a regular Noah's Ark man, a typical squire type. After two and a half years of never agreeing on any point with him, he remarked to some one that I was a very stupid woman but he must add that I was a "very attractive one," and he feared I was a thoroughly honest

social reformer. I might add that being the first woman, I had to take up many causes which no one would call exactly popular. I also had to go up against a prejudice of generations, but I must say their decency has never failed, though my manners must have been somewhat of a trial.

Now I must leave the more personal side and get to what it is all about and why we are here. Women and politics—some women have always been in politics, and have not done badly, either. It was when we had the Lancastrian Kings that it was said that the Kings were made Kings by act of Parliament—they did rule by means of Parliament. Then Henry VIII., that old scalawag, accepted the principles of the Lancastrians to rule by Parliament, but he wanted the principle in an entirely different way. He made Parliament the engine of his will: he pressed or frightened it into doing anything he wished. Under his guidance Parliament defied and crushed all other powers, spiritually and temporally, and he did things which no King or Parliament ever attempted to do—things unheard of and terrible.

Then Elizabeth came along. It is true she scolded her parliament for meddling with matters with which, in her opinion, they had no concern, and more than once soundly rated the Speaker of her Commons, but she never carried her quarrels too far, and was able to end her disputes by some clever compromise; in other words, she never let Parliament down, and that is what I don't believe any wise woman will do in spite of the fears of some of the men.

Now, why are we in politics? What is it all about? Something much bigger than ourselves. Schopenhauer was wrong in nearly everything he wrote about women—and he wrote a lot, but he was right in one thing. He said, in speaking of women, "the race is to her more than the individual," and I believe that it is true. I feel somehow we do care about the race as a whole, our very nature makes us take a forward vision; there is no reason why women should look back—mercifully we have no political past; we have all the mistakes of sex legislation with its appalling failures to guide us.

We should know what to avoid, it is no use blaming the men—we made them what they are—and now it is up to us to

try and make ourselves—the makers of men—a little more responsible in the future. We realize that no one sex can govern alone. I believe that one of the reasons why civilization has failed so lamentably is that it has had a one-sided government. Don't let us make the mistake of ever allowing that to happen again.

I can conceive of nothing worse than a man-governed world except a woman-governed world—but I can see the combination of the two going forward and making civilization more worthy of the name of civilization based on Christianity, not force. A civilization based on justice and mercy. I feel men have a greater sense of justice and we of mercy. They must borrow our mercy and we must use their justice. We are new brooms; let us see that we sweep the right rooms.

Personally, I feel that every woman should take an active part in local politics. I don't mean by that that every woman should go in for a political career—that, of course, is absurd—but you can take an active part in local government without going in for a political career. You can be certain when casting your vote you are casting it for what seems nearest right—for what seems more likely to help the majority and not bolster up an organized minority. There is a lot to be done in local politics, and it is a fine apprenticeship to central government; it is very practical, and I think that, although practical, it is too near to be attractive. The things that are far away are more apt to catch our eye than the ones which are just under our noses; then, too, they are less disagreeable.

Political development is like all other developments. We must begin with ourselves, our own consciences, and clean out our own hearts before we take on the job of putting others straight. So with politics if we women put our hands to local politics, we begin the foundations. After all, central governments only echo local ones; the politician in Washington, if he is a wise man, will always have one eye on his constituency, making that constituency so clean, so straight, so high in its purpose, that the man from home will not dare to take a small, limited view about any question, be it national or an international one. You must remember that what women are up against is not what they see, but the unseen forces.

We are up against generations and generations of prejudice. Ever since Eve ate the apple—but I would like to remind you, and all men, why she ate the apple. It was not simply because it was good for food or pleasant to the eyes; it was a tree to be desired to make one wise. "She took of the fruit thereof, and did eat; and she gave also unto her husband with her, and he did eat." We have no record of Adam murmuring against the fruit—of his doing anything but eat it with docility. In passing, I would like to say that the first time Adam had a chance he laid the blame on woman—however, we will leave Adam.

Ever since woman's consciousness looked beyond the material, man's consciousness has feared her vaguely; he has gone to her for inspiration, he has relied on her for all that is best and most ideal in his life, yet by sheer material force he has limited her. He has, without knowing it, westernized the harem mind of the East. I don't believe he knows it yet so we must break it to him gently. We must go on being his guide, his mother and his better half. But we must prove to him that we are a necessary half not only in private but in political life.

The best way that we can do that is to show them our ambitions are not personal. Let them see that we desire a better, safer and a cleaner world for our children and their children and we realize that only by doing our bit by facing unclean things with cleanliness, by facing wrongs with right, by going fearlessly into all things that may be disagreeable, that we will somehow make it a little better world.

I don't know that we are going to do this—I don't say that women will change the world but I do say that they can if they want and I, coming in from the Old World which has seen a devastating war, cannot face the future without this hope—that the women of all countries will do their duty and raise a generation of men and women who will look upon war and all that leads to it with as much horror as we now look upon a cold-blooded murder. All of the women of England want to do away with war.

If we want this new world, we can only get it by striving for it; the real struggle will be within ourselves, to put out of our consciousness, of our hearts and of our thoughts all that makes for war, hate, envy, greed, pride, force and material ambition.

# LEWELLYS FRANKLIN BARKER

## THE WIDER INFLUENCE OF THE PHYSICIAN

Dr. Barker, born at Norwich, Ontario, 1867, is emeritus professor of medicine in Johns Hopkins University and visiting physician in Johns Hopkins Hospital. He is the author of many scientific articles, the member of American and foreign learned societies, and the recipient of honorary degrees from several universities. We print the concluding portion of his address as president of the Southern Medical Association, at its thirteenth Annual Meeting, Asheville, N. C., November 10-13, 1919.

EVEN a brief discussion of the wider influence of the physician dare not wholly neglect the relation of the physician to standards of conduct and to regulation of behavior. For upon the physician, by virtue of his special opportunities, there falls an unusual obligation to perform a public duty with regard to ethical standards and the rational control of human action. Medical students become acquainted with the principles underlying different forms of animal and human behavior. Physicians, in their manifold contacts with people, have a better chance than most men to learn how the behavior of persons is regulated, how rights are maintained and how duties are enforced; they soon find out, too, the rules for determining what the rights and duties are in the main relations of life. The sympathetic relationships with individuals, families and other social groups entered into by physicians, the esteem in which doctors are generally held in the communities in which they live, as well as the social prestige that they enjoy, enable them to exert, at times, an important influence upon the formation of conduct standards and upon the agencies for promoting behavior that is in accord with social welfare.

The way in which men are led, either as a race or singly, to

the higher planes of conduct makes an interesting story. Students of animal and human behavior and investigators in social psychology have given us the outline. We now know much of the native basis of the mind and of its evolutionary history. We have been made familiar with the different levels of conduct that can be distinguished as successive stages, each to be traversed by a person before he can attain the next higher stage. In the different stages we see the influence on human behavior (1) of pain and pleasure, (2) of reward and punishment, (3) of praise and blame, and (4) of ideal standards. The self-regarding sentiment of the individual gradually becomes moralized, partly through the influence of authority or power (bringing rewards and punishments) and partly through the influence of an active sympathy that determines the desire for harmony of his own feelings and emotions with those of his fellows.

As higher forms of conduct develop, a certain desire for rightness appears as a fundamental human trait. It seems to be a desire to fuse the self with a larger self or to adjust the self to a whole that contains it. The theologian calls it a desire "to be at one with God"; the new thoughter wants to be "in tune with the Infinite"; the rationalist has a longing to be "in harmony with the social and cosmic order."

Rightness is a quality of conduct proper to all action. It is another name for fit conduct in all realms. In the interest both of individual freedom and of social coöperation a certain discipline and control of the social unit is essential. Right conduct must reconcile, therefore, both the claims of personality and the obligations of a common life.

It would be interesting, would time permit, to record some of the achievements of the American people and especially of the people of the South in setting up standards of conduct and in regulating human behavior. Thus much might be said of the gradual improvement in the discipline affected by parents, teachers, custom, convention, public opinion, public law, and the codes of different groups. We have good reason to be proud of the functioning of our social organs (families, schools, business, churches and the state); they are our most important agents for discipline, coördination and control.

Though it is gratifying to note what has already been

achieved, we can still discern many defects in the workings of our institutions of discipline and control. Family life, though often admirable, is in too many instances faulty in its discipline. Public opinion is in many respects still entirely unawakened and in others immature. In business life and in professional life, there are higher planes of conduct to be reached than those as yet attained to. In our ever-improving schools more attention might well be paid to character training. The Boy Scout and the Girl Scout movements need further encouragement and development. In our churches which are exhibiting a gratifying interest in the affairs of this life, a growing tolerance for differences of opinion, an increasing federation of effort and an extension of sphere, there is still too much dogma, too much lack of insight and human sympathy, too much conflict and too little adjustment to social needs. In our legislatures, where ever-better laws are being passed, the law-makers are still too much influenced by local considerations, by party prejudices, by political bosses, and by paid lobbyists.

All the great disputes about right conduct turn upon vindication of the rights of personality on the one hand and the extension of the conception of human brotherhood on the other. It has taken a long fight to secure liberty of conscience, freedom for religious conviction, freedom for intellectual sincerity—in other words, for freedom of thought and speech. And the fight for the freedom of the individual has succeeded only as we have come to understand that freedom has its limits.

The free individual must feel the responsibility of his freedom. This constraint is necessary, for individual freedom may not thwart the will of society as a whole. Though modern legislators tend to avoid compulsion, some compulsion is necessary. Liberty does not convey the right to injure others. But compulsion should not be extended to thought or to expression of honest conviction; it should be limited to suppressing harmful acts.

In the discussion concerning the right of association (labor unions, trusts, national leagues, societies of nations), we are confronted by some of the gravest social and political problems of our time. The sphere of combined action inevitably grows as respect for human personality deepens. The rights of per-

sons become the duties of society; law and the efforts of voluntary associations must protect them. At the same time, the fuller recognition of personal rights implies a deepening sense of common responsibility. If capital is to secure its rights, it must perform its duties; if labor is to hold its rights, it must not try to avoid its responsibilities; if nations are to retain their rights, they must not lose sight of the welfare of humanity as a whole.

Most of the progress toward better conduct comes from the conception, based upon greater intellectual insight, of truer and juster ideals than are transmitted through tradition.

Standards and ideals must be changed as the social process changes. One of the main barriers to true social progress is the survival of the pre-scientific and moralistic (as distinguished from the truly moral) attitude toward social offenders, or individuals regarded as perpetrators of social evil in any form. By this I mean the attitude of punitive hate, sanctioned in the interest of justice under cover of moral indignation. If social science has taught us anything, it is that social evils can be removed and social offenders reformed only as we are able to discover and control their causal forces (physiological, psychological, economic, social). Is it not true that absorption in the passion of punitive hate (personal vengeance, moral justice) prevents intellectual interest in natural or social causes and conditions, and lessens the chance of intruding modifications that will prevent the social evils that excite the hate? The moralistic attitude is a survival of the pre-scientific period when all evils (national or social) were attributed to arbitrarily bad spirits. Sickness was the expression of demoniacal possession and the sick man among primitive peoples was beaten or terrified till the bad spirit was punished and put to flight. It is only recently that insanity has been removed from the sphere of moralistic reaction; even to-day there are places in which the insane are treated as criminals, kept in jail, starved and beaten. Now, it was the physician who established the rule of natural law in disease, and it was medical science that redeemed the insane from the cruelty of the moralistic judgment. Is it not possible that the extension of the scientific spirit to penology and the general rationalization of the code of con-

demnation may also fall within the province of the physician, especially of the psychiatrist? The psychiatrist has already rescued various types of "sinners" who were formerly believed to be almost beyond the pale of social tolerance; he has turned on the light and shut off the heat!

As physicians become better trained in psychology and in sociology they will, I feel sure, make important contributions to criminology and to penal reform, and will help to extend the scientific, sympathetic spirit into the field of moralistic judgment generally. They will thus participate in a great movement of modern science, which tends to vindicate the intuition of supreme moral genius in the past, illustrated by the Socratic doctrine of the relation of ignorance to vice and of wisdom to virtue and by the prayer of Jesus, "Father, forgive them; for they know not what they do." The medical profession is from now on likely to play, I believe, an ever larger part in the creation of new conceptions of right conduct.

The physician, in exerting his influence toward the regulation of behavior, will then act in this sphere as he does in the sphere of other forms of hygiene. He will attempt to understand conditions and causes.

The physician will do what he can to insure that the human beings born shall be well-born, that they may have the capacity for normal character development, and he will, further, help to arrange their lives so that the environment will favor right thought, right feeling and right conduct. Animated by a melioristic view, he will do his utmost to increase the rational control of things by the collective wisdom of humanity.

In this cursory sketch, I have tried to show how the wider influence of the physician may wisely be exerted. Attempting, himself, proportionately to develop the fundamental interests of human life in his own personality with due consideration of the welfare of others, he will desire to promote the interest of all in health, in wealth, in sociability, in knowledge, in beauty and in right conduct. Cognizant of the stimulating value of high standards and ideals he will do what he can to create them and to make provision for practical demonstrations of their value. A believer in the superiority of gradual readjustment over violent change, he will patiently and steadily endeavor to

bring about improvements in the community in which he lives, stimulating where movements are sluggish, inhibiting where they are hasty or premature. Fortified by long observation of the fruits of application of the method of science, he will favor the extension of the method to all domains of investigation in which it can be helpful. He will, though, prize the "world of values" as well as the "world of facts," and will not permit the scientific habit in him to inhibit the artistic or the ethical. Convinced of the importance of intellect as a guide, he will do what he can to bring the conditions of life under the dominion of mind and the gratification of human desires ever more under rational control. In these many ways the physician will play his part in the self-conscious evolution of humanity.

## CHARLES HENRY BRENT

### THE CALL TO THE CHURCH TO DEVELOP A CHRISTIAN INTERNATIONAL LIFE

Bishop Brent, chief of the chaplain service of the A. E. F. in France, was formerly Bishop of the Philippine Islands and is now Bishop of Western New York. Another speech by Bishop Brent is printed in Volume I. This address was delivered before the Federal Council of the Churches at Indianapolis, Dec. 15, 1922.

THE ambitious duty of the Church from which it can never be released is to develop a human society which will be dominated by the Christian motive. This done, the kingdoms and republics of this world, though retaining each one its identity, will have become one body under the Supreme Sovereignty of God.

At the very beginning there was no doubt as to the purpose of Christ. It was to establish a Christendom as wide as humanity and as long-lived as the end of the world. Put the closing words of St. Matthew's Gospel at the latest date that criticism dares to set, and it still remains indisputable that they inspired and controlled the lives of those who knew Jesus of Nazareth in the days of His mortality. They are superb words, full of courage and certainty, breathing the mind of the Christ. Listen to them anew: "Full authority has been given to me in heaven and on earth; go and make disciples of all nations, baptize them in the name of the Father and the Son and the Holy Spirit, and teach them to obey all the commands I have laid on you. And I will be with you all the time, to the very end of the world." The moment the Church accepts this commission as its supreme and age-long duty, it will renew its youth. The Christianizing of nations has largely ceased to be an endeavor of the Churches, with the unhappy consequence that leaves the world to-day without a single Christian nation,

rightly so-called, unless in our charity we recognize the Armenians as being so loyal to Christ that almost to a man, or to a child, they are ready to die rather than renounce Him.

The call to the Church for the re-creation of human society comes not from the imagination or fatuous hope of sanguine men, ignorant of facts, and heedless of obstacles. It comes from the mind of God who conceived and shaped life on earth and who knows it from the inside, having lived it in His own Person. God is more human than humanity in that He is humanity's source and origin. If we accept Christianity at all, we must accept the cornerstone on which it stands. Here it is. The whole human race is potentially God's family and no groupings within the race, domestic, tribal, or national, may be used to obscure its essential oneness without dire penalties.

In the magnificence and spaciousness of this vision we move out into our duty. Individual safety can be discovered and secured only in social safety. If we take a common interpretation of the Church to-day, that it is a little company of like-minded people formed chiefly for their own spiritual prosperity, with no serious obligation for or genuine interest in the nation's welfare, much less the world's, we negative the Christian motive and hinder Christian progress. There never was, there never can be, a narrower work for the Christian church than the world. Whatever sails on a lesser sea is not the ark of salvation, nor does it even belong to the Christian fleet.

During the days when the covenant of the League of Nations was being drafted I wrote as follows to President Wilson:

"If, in the proposed draft of the League of Nations, there is no clause indicating God's purpose to bind all nations into one, could not something of the sort be inserted, even if it were only a single sentence? The more I have thought of the attempt which we are making to create world order, the more I have concluded its hopelessness without looking to God to do the work above and beyond as well as through us, which is necessary for anything permanent. I merely throw this out as a suggestion, and believe that it would tend to stabilize our idealism, if the first mention of unity were referred to as the product and purpose of God's mind."

To which the President replied:

"I need not tell you that the suggestion your letter contains appeals to my heart, but I am afraid, with the peculiar make-up of our Commission on the League of Nations, it would be useless to propose such a sentence as you suggest for the Covenant of the League."

I recognize the implication and justice of this reply. A phrase could be only a phrase unless it represented the mind of those who made it their own. The blame lay at the door of the Christian Church. Its work had been so faulty in Christianizing the nations that their representatives were not in a position honestly to maintain that they were working out God's great and beneficent purpose for the race, instead of weaving a fabric out of their own substance. I believe that the Churches of our shattered Christendom are slowly waking up to their full responsibility and opportunity, but many of them have not yet been able to distinguish between propagating their own exclusive tenets with sectarian intent, and that fearless unveiling of the Incarnate God which draws all men unto Him.

This, then, is our first and most deep-seated duty—to recognize, as the Church of Christ, that our business is with "all nations," and that we must secure what has been termed "the return of Christendom," that is to say a society dominated by the Christian motive. The concerted acceptance of such a commission, unreservedly and honestly as their only justification for existence, would do more to unify and vitalize the Church than any other one activity. The difficulty of the task is proportionate to its importance, but it represents a goal which, let obstacles be what they may, must never be abandoned. Unless the Christian begins with and adheres to it all else will be futile.

Assuming our acceptance of God's great purpose, we face the puzzle of coöperating with Him in working it out. It is a puzzle. But like all divinely constructed puzzles there is a key to it. That key is fellowship—fellowship with God and in God with one another. Fellowship is not merely a unifying force but also unity itself. It is the only end which is its own means. Under its influence all interests can be reconciled with mutual goodwill born of mutual understanding and mutual for-

bearance. It is the foremost business of the Churches to promote goodwill among their own members and with one another. But just now we are not considering individual but group Christianity. The same key, however, applies corporately as well as personally. The fellowship between nations must be controlled by love, joy, peace, good temper, kindliness, generosity, fidelity, gentleness, self-control. Conferences of representatives of the nations, in view of the impossibility of conferences of the nations themselves, are the greatest instrument for the promotion of goodwill at our disposal.

Herein consists the chief and sufficient cure for war. Let us remember what war is. It is sectional goodwill, a perversion of the Christian motive. By its organized confusion it degrades the saving principle of fellowship into a means of injury and destruction. The world does not need any further exhibition of war's museum of horrors to entice men away from its pseudogory. We all hate it. But we must not forget the great position it has held from the beginning of the world till now—it is the final arbiter in international disputes. It is just as irrational as trial by fire. But throwing stones at it does no good. Declaring it outlawed is futile, for the outlaw is a particularly dangerous enemy. If we dethrone it, we must have a superior monarch to occupy its place.

Again we are confronted by a puzzle. Our theories are good but human nature is not good so that practical application is the perplexity of the moment. So far as the Churches are concerned there remain still some elementary measures to be taken. Now is the time to establish a league of peace among the whole assortment of Christian denominations which clutter up the landscape. During the late war Christian fought against Christian, and, worse still, members of the same Christian body fought one another. I recognize that it would be inadequate for us to agree that we would not fight. But why could we not set ourselves as Christians to discover the substitute for war, and then pledge ourselves to demand of our respective governments use of the substitute to the exclusion of war? Veterans of many countries, tens of millions strong, are already banded together in *La Fédération Interalliée des Anciens Combattants* as the sworn enemies of war and with a clearly defined policy how

to replace it with a rational arbiter between nation and nation. Even the Buddhists in the Orient have massed their strength similarly. We too are making some progress in the same direction by existing organizations of the Churches, but our latent and unexploited forces are greater than those which have been called into activity. What is specially needed at this hour is constructive and "preventive statesmanship" in the Churches. There has been a lot of loose talk of late among Churchmen and equally loose criticism of the Churches by non-Churchmen on the subject of war. But I am speaking for unnumbered multitudes when I affirm that there are no more deadly foes of war on earth than the great mass of Churchmen.

I would lack in frankness and be trifling with facts were I to pass by the competitive character of the majority of Christian Churches as the greatest obstacle to our influence on nations. We of America need to unify our own household in matters both of faith and morals, and even when that is done American Christianity will still remain a permanent debtor of, as well as a permanent contributor to, the Christianity of the Old World. We of the New World are inclined to be impatient with the disciplines of history. If the tendency of the immediate inheritors of the past is to have foundations without a house, our tendency is to have a house without foundations. The roots of the Church are not only in recent history, or in pet epochs of history, but in the whole stretch of history which is our rich heritage. Christianity is not ashamed to have as tributaries Hellenism and Judaism, grand historic philosophies, conspicuously Aristotelianism and Platonism, and world religions like Buddhism. None can be neglected. The frank recognition of this might tame ecclesiastical fanaticism, with its zest for proselyting from other Christian Churches and its dogmatic exclusions. Until there is peace among the Christian Churches, their propaganda for peace among the nations must be lame and ineffective.

Let us face the main problem before us. What is the duty of organized Christianity in America in relation to shaping the international mind and policy of our nation? We accept the conclusions of our distinguished fellow citizen and statesman, Elihu Root, that the demand of the people of a democracy for

control of foreign affairs is "a step in the direct line of development of democratic government, which, according to the nature of democracies, will not be retraced. . . . The usefulness of this departure is subject to one inevitable condition. That is, that the democracy which is undertaking to direct the business of diplomacy shall learn the business." No one will dispute the function of representative government to interpret and apply the mind of the people, but in order that it may do this the voice of the people must be heard. Organizations of commerce, of literature, of health must be unfailing in registering the popular mind on these matters in Washington. Organized Christianity must be alert equally in pressing on the attention of the Government the mind of its constituency in all matters that pertain to the moral responsibility of the nation and the sanctity of human life. Of course our representatives in Washington are our leaders. We look to them as experts for distinctness of policy. Where this is lacking we have a duty rather than a right to use our prerogative of offering definite plans for their consideration. A democratic government that merely awaits the mandate of the people without a progressive course of education of its citizenry, is abdicating leadership. With the desire not to embarrass but to help the Government, representatives of American Christianity recently approached the Secretary of State with well-weighed proposals which were received with courteous attention.

It is the duty of the Church to aid the Government in giving practical expression to the accepted fact of the community of nations. Should the Churches agree on a way of reaching this end, the formulation and presentation of their thought is a normal feature of democracy, liable to no resentment, capable of great usefulness. I am expressing the thought of multitudes of American Christians when I express the hope that our Government might give the country a clearer idea of its mind on the community of nations. Quoting again words of Mr. Root, words with which this time, I cannot agree: "This great fact of the community of nations is not involved at all in any question about the 'League of Nations' or any other association of nations founded upon contract. The 'League of Nations' is merely a contract between the signers of the instrument by

which they agree to super-add to the existing usages, customs, laws, rights, and obligations of the existing community of nations, certain other rights and obligations of the existing community of nations, certain other rights and obligations which shall bind the signers as matter of contract. Whether a country enters into that contract or not, its membership of the community of nations continues with all the rights and obligations incident to that membership."

Mr. Root's conclusion is illogical and contrary to human experiences. Had the founders of our Republic acted on this theory there could never have been a United States of America. For what is our country but an "association of nations founded upon contract"? Ideals demand embodiment. The alternative is their death. President Wilson presented an embodiment which was rejected by our nation. But it will redound to his undying credit that he had courage to experiment. In rejecting the embodiment, the nation did not reject the ideal. As I view it we are in honor bound either to ally ourselves to the League of Nations in some real way in which we shall accept responsibility as well as give advice, or else produce a superior substitute. The President's latest message to Congress leads us to suppose that a substitute is about to be born. Whatever happens, the Church may not relax its vigilance, or relinquish its duty. The Church is guardian for all time of the family character of mankind.

The moment is a tense one. In Lausanne America, swaying great influence, sits as an "observer," with a voice but without a vote. Through the courtesy of the nations we are allowed representation without responsibility. And yet the existing confused situation in the Near East is due in part at any rate to America's fault. I am not distinguishing between Administration and Administration. I am speaking in terms of continuous national life. It is no use harking back to the past and indulging in recrimination. The only worth while thing we can do now is to admit the fact that as a nation we share in common with Europe its fault for the world's dilemma. Such an admission immediately constrains us to extraordinary effort to play our part in extricating mankind from the snare into which it has been trapped.

Thus far we have been considering chiefly nations which are courteously denominated Christian. But there is a more tremendous problem still for us to meet—our duty to Moslem nations and Islam as a whole. The problem is an inheritance from the Middle Ages which for centuries has stood in history as a warning how not to do it. The Crusades, whatever their by-products, were a dead failure in the end they sought. After the Saracen had been vanquished and Constantinople, Asia Minor and the Holy Land brought under Christian control, the allies of the day, Constantinople and Rome, quarreled and the Turk came marching in. The one bright spot of the times is the figure of that lowly figure, St. Francis, appearing before the Moslem conquerors to deliver his simple message which the living Christ had bidden him to carry thither. If he and those inspired by him failed in their end, the failure was due to the times and not to the message.

The Churches can do what no government can do by supporting existing schools of Christian goodwill that are already in operation in the Near East, and by increasing their number. They should be schools to serve, not to proselyte. The Turk cares not for theoretic religion. He is accustomed to live his. What must he think of the people who approach him with the Gospel of Peace in their left hand and the Sword of War in their right? If he kills he does so at Allah's command. But we can conceive of his saying as he reviews the history of Europe during the last decade: "How those Christians do kill one another!" The religion that competes with Islam must be a practicing religion and not a theoretic one.

So we face our responsibility in all its immensity. Ultimate victory is certain but progress cannot be other than slow. It may be that we are on the confines of the dark ages of modern history. There is much to lead us to suppose so. The Dark Ages of medieval times began with barbarism from without. Our dark ages, if they come, will be brought upon us from barbarism from within, the deadliest of all foes. But the business of the Church is to keep her light shining brilliantly for mankind. The monuments and literary creations of Christianity may be destroyed, or worse still, perverted to an unworthy use. But the life of the Church is within the people

who are loyal to Christ and they pass on from generation to generation the eternal gospel of the living God.

Before us the darkness—  
Sunward, O sunward!  
Rough is the highway—  
Onward, still onward!  
Dawn harbors surely  
East of the shadows.  
Facing us somewhere  
Spread the sweet meadows.

# BENJAMIN NATHAN CARDOZO

## MODERN TRENDS IN THE STUDY AND TREATMENT OF THE LAW

Benjamin Nathan Cardozo (1870-1939), an eminent American jurist, was born in New York and graduated from Columbia in 1889. He was admitted to the bar in 1891 and became a judge in the Court of Appeals of New York State in 1919, and an associate justice of the United States Supreme Court in 1932. The following address was given at the installation of Huger W. Jervey as Dean of the Law School of Columbia University on November 17, 1924.

I BRING to you the greetings of the world beyond your walls.

To-day a chapter closes in the life of the Columbia Law School, and another yet unwritten tempts indulgence in the futilities of prophecy. The School has been fortunate in the Dean who has brought it to its high estate. The very name he bears is a symbol of his rugged strength. He has known how to combine the scholarship that delves into the past with the large and free outlook that makes the past tributary to service of the present and the future. Strong of mind and strong of purpose, he has given of his strength without stint to the high task that has engaged him here, as he is giving of it now to the task, more open to the public eye, and yet in truth, I think, no higher, that in the councils of the nation is engaging him to-day. A great law school was already in existence at Columbia when Dean Stone became its leader. The School that he leaves is greater than the one he found. He has solidified its foundations, for he has known the weights that they will have to carry. He has charted the lines, the tendencies and directions, of probable expansion, for he has seen the expanding part that universities are to play in guiding and shaping and inspiring the law of future years.

I entered the Columbia Law School in the days when the

Dwight system prevailed. I left it in 1891 as a startled and bewildered class was trying to thread its way through the mazes of a new system which descended upon it over night. When I went there, three professors divided among themselves the field of the law. I learned contracts from Professor Dwight. I would no more have dreamed of questioning in word or spirit the rules which he laid down to me as law than I would have questioned the Ten Commandments. I learned the law of real estate from Professor Lee. His notes to Washburn's treatise were for the most part references to the Revised Statutes, with cross references at frequent intervals to some half dozen leading cases, which assumed through constant repetition the lineaments of trusted friends. To his teaching on real estate he added a short course in equity on the basis of Bispham's treatise. Everything else that I learned, I learned from Professor Chase. He taught us the law of crimes and torts and evidence and practice, and guided us through some chapters of Blackstone as a sort of general introduction. That was the extent of the curriculum. There was no instruction in jurisprudence or the philosophy of law. There was none in legal history. There was none in international law. There was none even in constitutional law, unless one took advantage of optional courses that were available to students of the Law School who matriculated also in the School of Political Science. In the domain of private law, we learned nothing about corporations, nothing about admiralty or patents; and whole fields that are to-day the subject of special courses—partnership, agency, insurance, carriers, suretyship, bankruptcy, and the vast and growing theme of the conflict of laws—had only such incidental treatment as was to be found in a chapter or a section of Parsons upon Contracts. With this and nothing more, we were sent forth into the world. If anyone is disposed upon this showing to contest my right to practice law, I can make profert of the parchment which confers the precious privilege.

I would not speak disdainfully of the Law School of my era. All of its teachers were devoted and able men, and one of them, Professor Dwight, was able to the point of greatness. Disdain, indeed, is impossible when one calls the roll of the alumni, and finds so many names that have illumined the profession both on

the bench and at the bar. But it is evident upon the surface of things that the ideals of such a law school are not the ideals of the Law School of to-day; that there was as yet no conception of the function of a university in the development of law; and that if law was to advance, if deformities were to be corrected, if there was to be ever increasing adaptation to the needs of social life, we should look in vain to the faculties of law schools organized on such a basis for the genesis and impetus of forces that could transfigure and inspire. The effort was to give the student such knowledge as would enable him to practice law in the kind of cases likely to come to a beginner, which, it was rightly believed, would not often be momentous. For this it was thought he would be ready after another year of tutelage in the office of a lawyer with a friendly office boy who would contribute advice, now supercilious, now compassionate, but never, let us admit, superfluous, to the ambitious and bewildered tyro. The Law School of my time was in effect a business college. It had no thought of a greater mission. It did the day's work decently and honorably, and recked not of the morrow.

I passed out of the Law School in 1891, and with my going went, too, the old business college of my day and of the days before me. The business college stage was succeeded by a new one, which, for lack of a better name, I may call the stage of legal science. Dean Stone in a recent address styled it, more happily perhaps, the Period of Survey. In this period the Law School for the first time became worthy to be ranked as a part of a university with all that this implies. New courses were established in fields that had been ignored. What had been dealt with before in a fragment of an hour became the theme for the labors of a year or a semester. More important event than this was the introduction of the case method of instruction. No longer did the student learn by rote out of a textbook some hasty and imperfect generalization, swallowed whole as it was given him. He was put to work at the sources. With the cases themselves before him, he analyzed the facts, dissected the reasoning, criticized the conclusion. I said a moment ago that I would no more have dreamed of questioning the law as promulgated by Professor Dwight than of pitting my feeble

voice against the thunders of Mt. Sinai. He said it was the law; it *was* the law; there was nothing more about it. It was like the law of gravitation, at least until Einstein's coming made even that unstable. Wiser heads had figured it out; our business was to believe it. I had much the same feeling for the decisions of the leading courts. But all this has now been changed. A decision of the Supreme Court, *a fortiori* and, I suppose, more reasonably a decision of the Court of Appeals, is no longer a postulate to be accepted. It is a thesis to be debated. It is no longer a starting point, a premise, for new deductions. It is food for criticism and discussion. If there is anything of evil in this tendency, it is overborne by the good. But the shattering of idols is the least of the changes wrought. What has been little short of revolutionary is the new discipline of the mind. Just as laboratory work is essential for the physicist or the chemist, so is like work for the student who seeks to penetrate the mysteries that lie hidden in the judicial process. I have no doubt that the outcome of the new method has been an enormous increase in two things, in the knowledge, the exact and comprehensive knowledge of law as it exists, and in the capacity to think legally, and so to apply law and extend it to novel combinations.

Much might be said about all this, but I do not wish to dwell on it. Possibly some union of instruction by cases with instruction by text-books and lectures may be found necessary hereafter. I pass these problems by. What I have in mind to emphasize to-night is not so much the immediate product of the change of method as something that was rather a by-product, an incident. Like many of the finest things in life, like happiness and tranquillity and fame, the gain that was most precious was not the thing sought, but one that came of itself in the search for something else. Significant and helpful was the transformation that was wrought in the student mind and spirit, but there was another transformation even more significant and momentous that wrought itself gradually in the soul of the university itself. The Law School had set out to follow. It found that it was leading. It had set out to record what had been done by lawmakers and judges. It found that it was building up a jurisprudence and a philosophy and a body of

informed opinion to which lawmakers and judges were looking for inspiration and for guidance. The University was adding to its function as a recording and collecting and disseminating agency another function of equal or greater power. Its function was becoming creative. It was establishing or helping to establish the norms, the standards, the criteria of excellence, the spiritual ideals that were to breathe into statute and decision a new sanity, a new realism, a new justice and a new hope.

This, then, is the latest stage in the life of the Columbia Law School; the school of legal science, while remaining what it was, has become something else as well; the label is inexact, but for convenience I will call it the School of Jurisprudence. Analysis and history and logic still occupy its mind and form the staple of its labors; but it has visions of something greater; it feels the pulse and the thrill and the exaltation of an energy, a capacity, which is original and creative. I doubt whether anyone appreciated the change when it began or indeed for years thereafter. Only slowly and as if to their own surprise have the universities been roused to a sense of their opportunity and power. The first tokens of the new function were visible in the field of criticism. Little by little it became evident that the modern law school was wielding an increasing power as a critic of judicial labors, a court of ultimate appeal.

I do not mean, of course, that any one law school can fill, alone and unaided, a rôle so large. I mean that the law schools collectively, or those inspired by university ideals, speak with singular authority when they unite to approve or to condemn. The discussion of cases in classroom and in law reviews brings out the bad, emphasizes the good, and finally develops an informed and collective professional opinion in which precedents take their just place either of distinction or of obloquy. Until the rise of the modern law school, criticism of judicial decisions was casual and sporadic. The great scholars of the universities with their organ of expression in the university law reviews have given us for the first time a body of critics as sleepless as they are alert. There are now watchmen upon the towers.

Not only that, but the towers from which they look give them a vantage point of vision, a breadth and unity and range of view

withheld from those below. I think I shall meet with no denial when I say that for exact and profound and comprehensive scholarship, we look to-day, not to the bar or the bench, but to the teachers in the universities and other learned bodies. Maitland used to tell with glee a tale of his master Sidgwick which is recorded in a delightful article by Professor Buckland published not long ago in the *Cambridge Law Journal*. "A foreign scholar one night in Trinity was depreciating," says Buckland, "our English scholarship. He said: 'Why you have not even an English equivalent for the words *Gelehrter* and *Savant*!' 'Oh, yes, we have,' said Sidgwick, with his curious and effective stammer, 'we call them p-p-prigs.'" The tale is so good that I could not forbear quoting it, though I have done so with some misgivings lest I might seem to speak scoffingly of learning, which is too rare a growth and blossoms too often with unexpected flowers, to be cheapened by derision, however it may show itself. I reconcile my conscience by following up the story with the statement that one of the great services of the masters of history and analysis in the field of legal science has been to show how scholarship and learning can give vitality and significance to what would be meaningless without them, stripping off the husks and laying bare the kernel. Maitland and Holdsworth in England, Ames and Thayer in our own land, not to mention many others, have proved, if proof was needed, how research can be wedded to wisdom in the service of mankind. Their names are enough without more to still the sneers of sciolists. This intensive kind of study, directed first to one field and then to another, has been cultivated by the teachers in the law schools with unexampled assiduity. History has been supplemented by analysis, and analysis by history. The result has been the building up of a class of legal scholars with a technique, an equipment, a range and breadth of learning, which are the envy and despair of advocate and judge.

I often ask myself disconsolately what is the origin, the secret, of their power, what subtle emanation issues forth from the halls of universities to fill them with its essence. I think the answer must be that they never dull the edge of learning by the rust of inaction or indifference. Judges follow often, and properly enough, the line of least resistance. If they see a

clear basis for giving judgment for one party or the other, they put off the evil day when some other question, more difficult or doubtful, may drive them to the unpleasant duty of making up their minds. Not so the teacher of law. He runs out to meet the difficulty which the court has timorously shunned. He is not oppressed by that sense of responsibility which comes to judges who know that the opinions they are rendering will make law not only for the parties, but for others to come later. Our teacher has no such fear. He does what so few of us do, he thinks his problems through. Not content with the difficulties of the cases recorded in the books, he is ever inventing others yet more subtle, refining them, distinguishing them, testing his own wits and the wits of the youth whom he is training for the arena of the bar. The upshot of these gymnastics is the union of extraordinary facility with extraordinary power. I do not say that such a method can be pursued without its drawbacks and its dangers. Occasionally it leads to undue emphasis upon what is bizarre or extraordinary, upon what is merely interesting or piquant. But with all these deductions and others, it is simple justice and no more to say that the highest legal scholarship of the country is to be found to-day in the ranks of the university professors. I can think of no finer tribute to them than is implicit in the program of the American Law Institute, which is attempting, as most of you know, a restatement of the law. After the program had been laid out, and the project of restatement launched, the next thing was to find the men with the ability to execute it. We judges and lawyers were able to say that the thing should be done, and we reserved to ourselves the privilege of finding fault with it thereafter. The work of doing it we turned over to the professors in the law schools.

The whole tale is not told, however, when we pay tribute to exact and comprehensive knowledge. If there were this and nothing more, the Law School would still be what I have called a school of legal science rather than a school of jurisprudence. Little by little, however, the study of law as it exists or has existed, has been supplemented by study of the essence of law itself, the principles that direct its growth, the ends and aims that it must serve. Law is no longer thought of as something

cabined and confined in a narrow compartment of its own to be opened only by the specialist. We are looking at it more and more as a means to an end; and in thus looking at it, the conviction is gaining ground that there can be no adaptation of means to ends without knowledge of many things that lawyers have at times neglected, without scrutiny of many forces, social, economic, ethical, as well as legalistic. The university has fulfilled a part, and a part only, of its task when it has gathered a company of scholars steeped in knowledge of the history and content of the legal precepts of the past. The task remains to discover and formulate a principle of growth that will give sanity and justice to the law of the present and the future. The school of legal science becomes a school of philosophy, a school of jurisprudence.

The great things are the simple ones, simple in the sense that they are primary and fundamental. The problems that are in truth the weightiest are no problems at all for the ignorant or thoughtless. Tell me what you understand by law, and I shall know how my lawsuit will be determined, though the judgment you are to render is yet locked within your breast. Give me your point of departure and the angle of your start. I shall know where you will end. Do you think of law as a body of unyielding rules which a judge is to apply with inexorable logic? Do you think the judicial process involves a quest for standards or norms of conduct which are reflected in the behavior of right-minded men and women? Tell me this, and I shall hold it more significant, if you have a place upon the bench, than the diligence with which you have been following the advance numbers of the law reports. I do not mean, of course, that the law school of the future will make a creative jurist out of every student in its halls. Happily for our peace of mind, it aspires to nothing of the kind. The humbler function of teaching the law as it is must still be discharged, and at least for the vast majority will be the service that is needed. Only the rare spirits will hear the call for more. But the classes in your halls are in truth only a small portion of the classes that you reach. The student-rolls are a fraction, and a fraction only, of the aggregate. Beyond your walls are other and greater classes, unseen and unmatriculated, whom you are touching with your

spirit—the bar that you are rousing, the bench that you are stimulating, and even beyond these the publicists and journalists, the statesmen, the teachers of social science, the leaders of thought and action in every field, who are awaking under your guidance to a new sense of the significance of law, a new understanding of its methods, a new resolution, a new passion, to hold it true to its ideals.

There is an easy tolerance that leads to the acceptance of ancient evils as if they were part of an eternal order because known to be part of an order that is rooted in the past. A sound philosophy of law will wake us from this lethargy. I count on the universities to rouse in our profession a passion for justice that will make us tingle with shame at rules that we now view with indolent complacency. “Nought wot I of your quibbles,” said the King, in a case that Dr. Bolland is fond of quoting from the Year Books, “Nought wot I of your quibbles, but [with an oath] you shall make me a good writ before you go away from here.” Are there any within the sound of my voice who can listen to the ruling I am about to instance without the anger and impatience of the King, if perchance without his power? At the close of the trial my adversary moves the court to direct the dismissal of the complaint. I argue myself hoarse in resistance to his motion. The trial judge, after hearing both of us, announces his decision, dismisses my complaint and charges my client with the costs. In my excitement and distress, I omit the word “exception,” the word of art which, if uttered, would have marked with unmistakable significance my continued disapproval. Probably the judge himself is doubtful about the merits of his ruling. The only thing he is not doubtful about is that he is making it against my protest. Will it be believed that here in New York, in this twentieth century, there are repeated judgments of the highest court, judgments of ancient origin, to the effect that for lack of the magic word “exception,” an appeal, if taken, will be futile? I make no attempt to say whether these judgments were good law when they were rendered, or whether it is within the competence of the judges of to-day to sweep the rule aside without the aid of legislation. “Nought wot I of your quibbles.” What I am sure of is that there must be a new

birth of a spirit that will stir our kingly anger when such absurdities are perpetrated.

The melancholy and surprising feature of it all is not merely that such things exist. The melancholy and surprising feature is that they do not raise a ripple upon the placid surface of contentment. The old conception of procedure as a sacred ritual to be followed with literal exactness comes down to us as an inheritance from a distant past. It has ingrained itself too deeply in the literature of the law and in the practice and the thought of lawyers and of judges to be uprooted in an hour. We smile, indeed, derisively when we read of these things in primitive times and among untutored peoples. We are blind to the vestiges of a like ritualism that abide with us to-day. When we heed them at all, we accept them as inevitable. Yet, of course, they are nothing of the kind. Take the nightmare of such a ruling as I have just instanced to your horror. If we cannot rid ourselves of its incubus in any other way, and if for some technical reasons which I need not enter into now, the form of an exception is desirable, a statute should be passed that an exception shall be implied and shall be inserted in the record at any stage of the appeal whenever it shall be made to appear to the satisfaction of the court that the appellant did not acquiesce in the ruling made against him.

Deep down and at bottom, such things survive because we have no adequate philosophy of law and are not interested to have one. We are mightily concerned about the symmetry and consistency of our rules, the cogs and weights and balances of the legal mechanism. We lose sight at times of the why and the wherefore, the realities behind the rules, the meaning of the work that we are doing day by day.

I could go farther if time permitted and prove how many of the deepest and most contentious problems of constitutional law, and particularly in the interpretation of the meaning of due process, have their origin in a false philosophy or in no philosophy at all. For by a philosophy of law (if I may borrow from what I have elsewhere written) I mean this and nothing more: the knowledge of what law is, how it grows, and whither it tends, a philosophy of genesis, of growth, of end and aim. These things we lack. The university must give them. It

must labor in season and out till all of us shall know that law is not a cadaver, but a spirit, not a finality, but a process or "becoming," not a clog upon the fullness of life, but an outlet and a means thereto, not a game, but a sacrament.

The jurists of older days used to speak of a Law of Nature, a changeless archetype upon which human laws are patterned and to which they must conform. Historians and philosophers have emptied upon the notion of such a law the vials of their ridicule till we have almost forgotten that behind the metaphor and the allegory, there is an inextinguishable truth. To-day a reaction has set in. "Does this mean," says Vinogradoff, referring to criticism of the doctrine, "does this mean that the law of nature or reason is a fanciful and absurd misconception? I am afraid," he goes on, "I am afraid the absurdity lies in supposing that a doctrine which has played such a part in the history of the world, which has appealed to minds of men of widely contrasting dispositions in entirely different circumstances, does not rest on solid foundations." The changeless archetype does not exist, but the vital truth remains that the search by judges for the yet unformulated rule is the search to give articulate expression in the standards of legal conduct to the manners and morals of the generation that they serve. Something, indeed, must be sacrificed to certainty and permanence when once the rule has been declared.

Even then, there is a point at which tolerance may cease to be a virtue. In reckoning the competing claims of certainty and justice, we must take stock of profit and loss and strike a balance of advantage. On every generation this duty rests afresh. To ignore it, to preach or practice a supine acquiescence, is not the path of true conservatism. It is to feed the fires of discontent and envy, to nourish impatience of all law as of something alien or cruel, to fill the multitudes with the thought that we are more concerned with our duties as the guardians of an esoteric mystery than with our larger and deeper duties as the preachers of a living truth.

"The apologist for outworn rules of law and institutions of law," says Dean Pound in his address last July before the American Bar Association, "always takes his stand behind the sanctity of the legal order. He postulates passive obedience to

the legal order as a duty, and deduces passive juristic acquiescence in whatever legal precepts obtain in the books for the time being." Such a spirit of obscurantism will find no shelter here. More and more the law must seek to refresh its strength by reaching down into the wells of moral truth and social virtue which are the sources of its energy. It is for the university to build the aqueducts that will bring these waters to our doors.

I know that there are moods and seasons in which teachings such as these may seem dis severed from realities. The principle of the division of labor has spread from industry to law; and young men about to labor in the modern law office with its departments and sub-departments may say to themselves cynically that they will have little need of jurisprudence. I hear of lawyers whose single task it is to prepare income tax returns. Others spend their days in making up the accounts of fiduciaries for submission to the Surrogate. Still others feel no deeper thrill than comes from the drafting of a corporate bond and deed of trust, with the dread possibility of foreclosure looming vaguely in the distance, the day of judgment when the bondholder will know whether there was negligence or prevision in drafting the terms of his security. I do not minimize the pangs of such a lot, though I have no doubt that they can be matched by like trials and tribulations that were known to the scribes and assistants of the conveyancers of older days. Examples such as these do not lower my theme. They do not blur my faith. The law, like every other calling, has its hours of drudgery when there is no other satisfaction for the spirit than the knowledge that with fidelity and with such powers as have been given us we are doing the day's work. But for all of us at times there are glimpses of something more. The forward movement of humanity carries us along with its resistless sweep so that our energies are well-nigh absorbed in keeping step with those about us. A turn in the road, and beyond the mass of moving men there comes to us a vision of the movement as a whole.

We are the passing instruments of a process that transcends our fleeting hour. None of us can now foretell the aspect of our legal system when the new Dean shall lay down the trust

assumed by him to-day. Still less can any of us foretell the aspect of the system that coming centuries may know. Many a pillar of justice must be raised, round upon round, before the perfect pediment shall crown the finished work. Small at best is the contribution that any one of us can make, yet we may be sure that it will count if only it is sound and true. In the cathedral of the law, as in the cathedrals of a living faith, the consecrated labors, the hopes and prayers and yearnings and aspirations of multitudes that have gone before us, some of them remembered, many more of them forgotten, have been built into the walls, and speak their message yet to the ears of the devout. Other things, indeed, have been built there too—errors and superstitions and cruelties and hatreds. The blight of decay is on them, and they crumble with the years. The walls stand firm withal. Spire and minaret and dome still struggle toward the skies.

Into new hands is now committed the guidance of this Law School with all its heritage of things attained, with all its hopes of things to come. The hands are new, but they are also firm and strong. Dean Jervey brings to his task an equipment rare in fullness and rich in promise. I have spoken of the points of contact between law and the other studies and pursuits that touch the lives of men. There is little danger that in the years to come these contacts will be ignored. A Dean who has felt the spell of ancient Greece and has taught the secret of her spell to others, will take no cramped or narrow view of law, but will know that in its deepest aspects it is one with the humanities and with all the things by which humanity is uplifted and inspired. To this liberalizing culture, earned in other fields of study, he adds a rich training in the field that he is to make his own. To the scholar's knowledge of the law in books he links the knowledge of its living needs that comes from varied practice at the bar. As he faces his new task, he has the confidence and support of his brethren of the bench and bar, of all who have at heart the honor and welfare of Columbia, of all who love justice and who dream of the coming of a day when none shall know the difference between her reign and the reign of human law.

# CHARLES ANDERSON DANA

## JOURNALISM

Address by Charles A. Dana, journalist, editor of the *New York Sun* for more than a quarter of a century (born in Hinsdale, N. H., August 8, 1819; died in Glen Cove, Long Island, October 17, 1897), delivered originally at Union College, Schenectady, N. Y., October 13, 1893. Mr. Dana was introduced by General Butterfield with a few words of compliment. His audience included the President and faculty of the college, as well as students of all the classes. This was the first and most comprehensive of Mr. Dana's series of three addresses on newspaper-making.

MR. PRESIDENT, GENERAL BUTTERFIELD, AND GENTLEMEN:—I am intensely grateful to General Butterfield and President Webster, for the opportunity of appearing before you to-day. If there is anything in life that is delightful to an old man, it is the opportunity of meeting intelligent and earnest young men, and telling them something out of his experience that may be useful to them; and, as our desire is that this shall be a practical occasion, I want to say at the beginning that if any part of the subject, as I go over it, shall not seem to any one of you to be sufficiently explained and elucidated, I will be very much obliged if you will get up and ask the questions that you wish to have answered.

The profession of journalism is comparatively new. It really is, as it exists to-day, an affair of the last forty or fifty years. When I began to practice it in a weekly paper the apparatus which we have now, and which General Butterfield has referred to, was quite unknown. The sheets which we daily take in our hands and from which we gather a view of the whole world and of all that has been going on in it, all the sciences, all the ideas, all the achievements, all the new lights that influence the destiny of mankind: all that was entirely out of the question.

There was no such apparatus, and it has been created by the necessities of the public and by the genius of a few men who have invented, step by step, the machinery and the methods that are indispensable, and without which we could not undertake to do what we do.

Of course, the most essential part of this great mechanism is not the mechanism itself; it is the intelligence, the brains, and the sense of truth and honor that reside in the men who conduct it and make it a vehicle of usefulness—or it may be of mischief: because what is useful can just as easily be turned to mischief if the engineer who stands behind and lets on the steam is of an erroneous disposition.

The number of intellectual young men who are looking at this new profession, which for the want of a better name we call the profession of journalism, is very great. I suppose that I receive myself every day, taking one day with another, half a dozen letters from men, many of them college graduates, asking for employment, and for an opportunity of showing what is in them. Of course, they cannot all get it in the same paper. Now and then one obtains a place, but generally the rule that is observed in all well-organized newspaper offices is that the boys who begin at the beginning are taken up step by step in accordance with their faculties and their merits. This is so because, as we know in college, it is impossible that there should be any imposture which sets a man's abilities above their real value, since in the daily intercourse and the daily competition of study and of recitation the real worth of a man's brain is demonstrated, so that there is never any doubt. So it is in a newspaper office. The boys who begin at the bottom come out at the top. At the same time these boys do not all start out with the best outfit, that is to say, with the best education: and I have known very distinguished authorities who doubted whether high education was of any great use to a journalist. Horace Greeley told me several times that the real newspaper man was the boy who had slept on newspapers and ate ink. [Laughter.] Although I served him for years and we were very near in our personal relations I think he always had a little grudge against me because I came up through a college. [Laughter.]

Now, here before us are a number of young gentlemen who, I have no doubt, will be led to embrace this profession. We know that among a certain number of students there are so many doctors, so many clergymen, so many lawyers—sometimes too many lawyers [laughter]; and there are also, of course, a considerable number who are looking forward to this great civilizing engine of the press; and it is a great engine.

Just consider the clergyman. He preaches two or three times a week and he has for his congregation two hundred, three hundred, five hundred, and if he is a great popular orator in a great city, he may have a thousand hearers; but the newspaper man is the stronger because throughout all the avenues of newspaper communication, how many does he preach to? A million, half a million, two hundred thousand people; and his preaching is not on Sundays only but it is every day. He reiterates, he says it over and over, and finally the thing gets fixed in men's minds from the mere habit of saying it and hearing it; and, without criticizing, without inquiring whether it is really so, the newspaper dictum gets established and is taken for gospel; and perhaps it is not gospel at all. [Laughter.]

In regard to this profession there are two stages, and we will consider each of them separately. The first is the stage of preparation. What sort of preparation, what sort of preliminary education should a man have who means to devote himself to this business? There are some colleges which have lately introduced schools of journalism or departments of journalism, where they propose to teach the art of newspaper making, to instruct the student in the methods that he should employ, to fit him out so that he can go to a newspaper office and make a newspaper.

Well, I will not say that is not useful. I do not know that there is in any intellectual study, or in any intellectual pursuit, or in any intellectual occupation that is followed with zeal and attention, anything that can be described as useless. No, I do not know of anything, if you really learn it, although it may seem to your next neighbor around the corner rather trivial, that is not useful after all. There is certainly a great utility and a profound science in baseball and the man who pursues it

and acquires it, has acquired something that will be useful to him. He has got a knowledge, he has got an intellectual discipline that will be valuable all his life through. So it is with every study that a man may pursue, so that we cannot say that anything is useless. But as for these departments of journalism in the colleges: there has been one at Cornell University for several years, for six or eight years I should say, and I have never found that a student or graduate who had pursued that department there instead of pursuing other studies, was of any great avail as a practical worker in the newspaper work that he had been trying to learn.

In fact, it seems to me, if I may be allowed a little criticism, that the colleges generally are rather branching out too much, until they are inclined to take the whole universe into their curriculum, and to teach things which do not exactly belong there. Give the young man a first-class course of general education; and if I could have my way, every young man who is going to be a newspaper man, and who is not absolutely rebellious against it, should learn Greek and Latin after the good old fashion. [Applause.] I had rather take a young fellow who knows the Ajax of Sophocles, and who has read Tacitus, and can scan every ode of Horace, I would rather take him to report a prize-fight or a spelling-match, for instance, than to take one who has never had those advantages. [Applause.] I believe in the colleges; I believe in high education; but I do not believe in scattering your fire before you are in the face of the enemy.

When you begin to practice the profession of a newspaper man, then is the best time to begin to learn it; but while you are in college with the daily series of professors and all the appliances of study that belong to the college, make the best of them and pursue vigorously those studies that give accuracy in learning, and that give fidelity and accuracy in recitation. The great end of education, President Walker used to say, is to be able to tell what you know; and he used to say, too, that some bright men carried it so far that they were able to tell a great deal they did not know. [Laughter and applause.]

There is no question that accuracy, the faculty of seeing a thing as it is, of knowing, for instance, that it is two and

one-quarter and not two and three-eighths, and saying so, that is one of the first and most precious ends of a good education. Next to that, I would put the ability to know how and where most promptly to look for what you don't know, and what you want to know. Thirdly, I would put Dr. Walker's great object, being able to tell what you know, and to tell it accurately, precisely, without exaggeration, without prejudice, the fact just as it is, whether it be a report of a baseball game, or of a sermon, or of a lecture on electricity, whatever it may be, to get the thing exactly as it is. The man who can do that, is a very well educated man.

In addition come the qualities of personal talent and genius. Now, genius is a great factor. When we think of such a genius as the one I have just mentioned, the late Mr. Greeley, why, our minds may well be filled with admiration. I do not suppose more than one or two gentlemen here ever knew Mr. Greeley personally; but he was a man of immense ability, of instincts of extraordinary correctness in many respects, and of the power of expression, of telling what he knew, in a delightfully picturesque, humorous way which not merely instructed the hearer and reader, but gave him a sense of delight and satisfaction from the mere art that was applied in the telling. He had had no great advantages of education. He had to pick up his education as he went along, reading in the winter evenings by the firelight, and never wasting a chance of learning something. But he lacked one of the most precious faculties, which it is another great object of the college education to cultivate and bring out, and that is what we will call the critical faculty, the judgment which, when a proposition is stated to you or a fact is reported, looks at it calmly and says, "That is true," or else, "That is false"; the judgment, the instinct, the developed and cultivated instinct which knows the truth when it is presented and detects error when it comes masquerading before you, without the necessity of any long examination to ascertain whether it is truth or error. This great man of whom I am speaking, this great and brilliant journalist, one of the greatest we have produced, was deficient in that faculty, so that sometimes he was mistaken. We are all of us mistaken occasionally, I dare say, but perhaps his

mistakes were more conspicuous because of his great power in writing, and his rare genius.

Now, as for the preliminary studies of the journalist apart from the ancient languages, whose importance, I think, cannot be overestimated; and the reason why this importance, in my judgment, is so great, is that they lie at the foundation of our own language, and the man who does not know the three or four of those old languages, or at least two of them—if he knows three, if he knows the old Teutonic all the better—the man who has not that knowledge, does not really know the English language, and does not command its wonderful resources, all the subtleties and abilities of expression which are in it. Certainly, without Greek and Latin no man knows English; and without Teutonic no man's knowledge of English is perfect.

The first thing that the man who is looking forward to this profession in which the use of the English language is the main thing, since it is the instrument that he must apply continually for the expression of ideas and for the dissemination of knowledge, is to know this language thoroughly, and that is the very corner-stone of the education that a journalist should look forward to and should labor after and should neglect no opportunity of improving himself in.

After a knowledge of the English language comes, of course, in regular order, the practice, the cultivation of the ability to use it, the development of that art which in its latest form we call style, and which distinguishes one writer from another. This style is something of such evanescent, intangible nature that it is difficult to tell in what it consists. I suppose it is in the combination of imagination and humor, with the entire command of the word-resources of the language, all applied together in the construction of sentences. I suppose that is what makes style. It is a very precious gift, but it is not a gift that can always be acquired by practice or by study.

It may be added that certainly in its highest perfection it can never be acquired by practice. I do not believe, for instance, that everybody who should endeavor to acquire such a style as the late Dr. Channing possessed, could succeed in doing so. He was a famous writer fifty years ago in Boston, and his style is of the most beautiful and remarkable character.

As a specimen of it, let me suggest to you his essay on Napoleon Bonaparte. That was perhaps the very best of the critical analyses of Napoleon that succeeded to the period of Napoleon worship, which had run all over the world. Channing's style was sweet, pure, and delightful, without having those surprises, those extraordinary felicities that mark the styles of some writers. It was perfectly simple, translucent throughout, without effort, never leaving you in any doubt as to the idea; and you closed the book with the feeling that you had fallen in with the most sympathetic mind, whose instructions you might sometimes accept or sometimes reject, but whom you could not regard without entire respect and admiration.

Another example of a very beautiful and admirable style which is well worth study, is that of Nathaniel Hawthorne. In his writings we are charmed with the new sense and meaning that he seems to give to familiar words. It is like reading a new language to take a chapter of Hawthorne; yet it is perfectly lovely, because with all its suggestiveness it is perfectly clear; and when you have done with it you wish you could do it yourself.

The next thing that I would dwell upon would be the knowledge of politics, and especially of American politics. This is a very hard subject. [Laughter and applause.] Its history is difficult. If you go back to the foundation of the Republic, you find it was extremely complicated even then; and it requires very careful study and a very elevated impartiality to make your analysis at all satisfactory to yourself as you go through the work.

Still, it is indispensable to a man who means to fill an important place in journalism, and all who begin upon it certainly have that intention. No young man goes into any profession without a good degree of ambition; no young man can carry his ambition very far in journalism—I mean, in general, universal journalism, not in special—no man can carry his ambition very far who does not know politics, and in order to know politics, there must be in the man some natural disposition for politics. I have often been appealed to by friends, who said: "Can't you take this young man and give him

employment?" Then I will watch that young man for a month or so and see what it is that he takes up in the morning. If he takes up the newspaper and turns to the political part of the paper, and is interested in that, why that is a good symptom of his intellectual tendencies; but if, instead of that, he takes up a magazine and sits down to read a love story, why, you cannot make a newspaper man out of him. [Laughter and applause.]

And yet he may make a very good writer of love stories; and as that is a sort of merchandise which seems to be always in demand, and to bring pretty fair prices, why, if you have a talent in that direction, go ahead. You may make a good living, I have no doubt; but you will not play any momentous part upon the stage of public affairs, and that is the sphere of activity which the generous-hearted and courageous youth looks forward to.

In order to be of importance in the affairs of this world in the newspaper profession, you must be a politician, and you must know not merely the theories and doctrines of parties, not merely the recondite part of politics, but you must know practical politics, the history, the men, the individuals, their ideas, their purposes, and their deeds; know them if you can as they really are, not as the blind and the prejudiced may imagine them to be.

Now, Mr. Greeley is my great exemplar in journalism. He thought a newspaper man was of little use who did not know just the number of votes in every township in the State of New York, and in every voting precinct, and who could not tell whether the returns from the Second district of Pound Ridge, in Westchester County, were correctly reported or not without sending to the place to find out how many votes had really been cast. That was one of his great points of distinction and success; but I would not advise you to labor after that sort of knowledge unless you have inherited a natural talent for it. But you should understand and appreciate the theory of the American Government, you should know where this republic began, where it came from, and where it belongs in the history of mankind, and what part it is destined to play in the vast drama of human existence. That is the sort of politics

that must appeal to any intelligent man and that will surely test his utmost powers. And while we are on this point, we may say in passing that an American who thinks another country is better than this should not go into journalism. [Applause.] You must be for the Stars and Stripes every time, or the people of this country won't be for you [applause], and you won't sell enough papers to pay your expenses. [Laughter.]

In order to understand the theory of the American Government, the most serious, calm, persistent study should be given to the Constitution of the United States. I don't mean learning it by heart, committing it to memory. What you want is to understand it, to know the principles at the bottom of it; to feel the impulse of it; to feel the heart-beat that thrills through the whole American people. That is the vitality that is worth knowing; that is the sort of politics that excels all the mysteries of ward elections, and lifts you up into a view where you can see the clear skies, the unknown expanse of the future. [Applause.] Besides the Constitution of the United States, it is well to be acquainted with the Constitutions of all the States. All these Constitutions are more or less modeled upon the central Constitution; but there are differences, and those differences a man ought to know. The citizen of New York ought to understand the Constitution of New York and for himself get at the reason for this and that provision. Take, for instance, the great question which has occupied the people of New York so long, the question of an elective judiciary or a judiciary appointed by the Governor; which is better, which is right? That is better and that is right, evidently, which gives better judges and which produces a more equable, steady, consistent, and just administration of law. Well, now, the young man who sets to work and studies out that question has accomplished a great deal; he has got a light in his mind that will go with him a great way, and that will help out his judgment in other things. Supposing that he is conducting a newspaper, and is responsible to the people for conducting it in an instructive and useful manner, and for having it such that when he says a thing is so the people will know that it is so: the man who knows the Constitution of the States, of his own State, and of all the principal States, as well as the Constitu-

tion of the United States, is well fitted for conducting a newspaper, or even for administering a government.

The modern newspaper, however, is not confined to any neighborhood or to any country. You have got to look beyond your own land; you have got to study the history of every European country. You must know, first of all, the history of England. We came from England; the American Constitution is rooted in English principles and in English history. You want to know where it started from. You want to go into the garden where the seed was first sown and watch the growth of this great product of wisdom and beneficence which we call the American Constitution. You see, the course of preparatory study is very large; and it is not very easy; it must be carried on in earnest. It is not a matter of fancy or of play. And so not merely with the history of England, but with the history of all of Europe, of every great and every little country. The course of human history offers a safe guide for human action, and especially for political action.

But I do not propose all these things as a course of preparatory study for a young man. You cannot learn everything in a day. It is as much as many men can do to learn a few things in the lapse of a long life; but at least try to learn something solid, to add to your stock of efficacious knowledge, to add to your understanding of principles, and to feel that as little effort as possible has been wasted and as little time as possible flung away.

The next point to be attended to is this: What books ought you to read? There are some books that are indispensable, a few books. Almost all books have their use, even the silly ones, and an omnivorous reader, if he reads intelligently, need never feel that his time is wasted even when he bestows it on the flimsiest trash that is printed; but there are some books that are absolutely indispensable to the kind of education that we are contemplating, and the profession that we are considering; and of all these the most indispensable, the most useful, the one whose knowledge is most effective, is the Bible. There is no book from which more valuable lessons can be learned. I am considering it now not as a religious book, but as a manual of utility, of professional preparation, and professional use for

a journalist. There is perhaps no book whose style is more suggestive and more instructive, from which you learn more directly that sublime simplicity which never exaggerates, which recounts the greatest event with solemnity, of course, but without sentimentality or affectation, none which you open with such confidence and lay down with such reverence: there is no book like the Bible. [Applause.] When you get into a controversy and want exactly the right answer, when you are looking for an expression, what is there that closes a dispute like a verse from the Bible? What is it that sets up the right principle for you, which pleads for a policy, for a cause, so much as the right passage of Holy Scripture? [Applause.]

Then, everybody who is going to practice the newspaper profession ought to know Shakespeare. He is the chief master of English speech. He is the head of English literature. Considered as a writer, considered as a poet, considered as a philosopher, I do not know another who can be named with him. He is not merely a constructor of plays that are powerful and impressive when they are shown upon the stage, with all the auxiliaries of lights, and scenery, and characters; he is a high literary treasure, a mighty storehouse of wisdom, the great glory of the literature of our language; and, if you don't know him, knowing the language may not be of much avail after all. Perhaps that is an exaggeration, and I take it back; but it is an object to know Shakespeare; it is indispensable to a journalist.

Then there is another English author who ought not to be neglected by any young man who means to succeed in this profession. I mean John Milton, and I invite your attention to that immortal essay of his, too little known in our day, the "Speech for the Liberty of Unlicensed Printing." It is a treasury of the highest wisdom, of the noblest sentiments, and of the greatest instruction; study that, and you will get at once the philosophy of English liberty and the highest doctrine that has ever been promulgated, to my knowledge, with regard to the freedom of the press.

When I advise you to make yourselves familiar with these glories of English literature, I do not say that these writers ought to be taken as models. Do not take any model. Every man has his own natural style, and the thing to do is to de-

velop it into simplicity and clearness. Do not, for instance, labor after such a style as Matthew Arnold's—one of the most beautiful styles that has ever been seen in any literature. It is no use to try to get another man's style, or to imitate the wit or the mannerisms of another writer. Let every man write in his own style, taking care only not to be led into any affectation, but to be perfectly clear, perfectly simple, or, in other words, to follow the honored and noble traditions of Union College. [Applause.]

# JOHN COTTON DANA

## MERE WORDS

John Cotton Dana was at the head of the Free Public Library of Newark, N. J., from 1902 to 1929 and was one of the leading librarians of the country. He was born in Woodstock, Vt., in 1856 and graduated from Dartmouth in 1873. This address was delivered before the New Jersey State Teachers' Association, Trenton, December 29, 1902.

WE sometimes speak scornfully of "mere words." That is because it is easier to make sounds than it is to talk sense. Orators tend to run to sound. A pinch of plain reason makes a multitude of fine words seem like substantial mental food. The younger we are the more ready we are to take the crackling of a few thorns for a good hot fire. Where deception is easy deceivers multiply. So good teachers are always on the watch against the word habit. And they wisely speak in scorn, sometimes, of "mere words."

But now and then the word's side of the case may properly be presented.

Words mark us off from other animals. When we had invented languages we had climbed on to the high table-land of humanity. We are the only reasonable race. If other creatures are rational, their reasoning is hardly of our kind. We think almost solely in words; and can we think of a thought which—not using words—is not the kind of thought we use when we think? The question is a pleasant puzzle. At least it serves my turn, for I am trying to bring up vividly the idea that words underlie our whole life; are the signs of our nobility and a cause thereof; are bonds of society, the records of our progress and the steps on which we rise. And they are, some of them, as full of emotion as others are of meaning. Association, constant use, experience, story, fable, history, all

have made them able to arouse in us sentiments grave and gay, feelings of grief, pity, joy, reverence, emotion, wonder. It is a curious and astounding thing this power to touch all the stops in the complex organ of our emotions which a "mere word" enjoys. Were a violinist to play to you here and now a bar or two from "Yankee Doodle" or "America" or "Home, Sweet Home" or "Dixie," you would be moved, each and every one of you; vaguely perhaps, perhaps very definitely, but somehow the mere vibration of the strings of the violin would thrill through every one of us. This is wonderful when soberly thought of. Still more wonderful it is that the vibrations I may set in motion from my throat, fashioned at my will to make a certain familiar word, can likewise move you, and still more definitely, deeply, and permanently than the far more cunningly fashioned notes of the violin. I will try it. Be as coldly observant and critical as you please—while I simply name to you a few names—it will only make my little experiment the more interesting:

"Aladdin, Babylon, the Pyramids, Homer, Ulysses, the Parthenon, the Tiber, Julius Cæsar, the Goths, Charlemagne, King Alfred, Richard of the Lion Heart, the Crusades, Napoleon, Waterloo, Lexington, Washington, the Nile, Pharaoh, Moses, Palestine, Herod, the sea of Galilee, Nazareth, the Garden of Gethsemane, Calvary."

As I repeated those words you got from them a feeling of sympathy, of awe, of vast distance, of long lapse of years, of exultation, of reverence, of tenderness, and with these feelings, not at once perhaps as strong and clear as "Dixie" could arouse, but deeper, came a tumult of thoughts of every form and nature. In, or with, or by those few simple sounds you traveled, from the Egypt of three thousand years ago down through Greece and Rome, and the Middle Ages, and modern times to our Revolution, and then went back for a moment to the great figure of all history and to the religion in which you live. Just a handful of words. Consider their power. "Mere words!"

This is not all of my argument. This sensitiveness to words does not come by nature. One may be born to be musical. One is not born to a knowledge of Julius Cæsar. We speak of such things as my little list of words recalls as part of the in-

heritance of the race. They are not so save in a restricted sense. We do not inherit them. We learn them. Many times as the story of Aladdin has been told, it must be told again for each and every child, as new generations come on the stage. Consider the observation, reading and study that each of you engaged in before your brains were so attuned that those simple sounds I made aroused in them sympathetic vibrations of thought and feeling. Was it worth your while? Do you feel that, being thus attuned, you have a better claim to rank as women of intelligence?

We all seek pleasure. To make to-morrow not less full of joy than to-day, and to keep from it some of to-day's pains and sorrows; this sums up our aims. I am not forgetting that one of to-morrow's anticipated pleasures may be the making others a little happier than we did to-day. I am not now going into the field of ethics. I am trying to bring out in a little different light the old picture of the delights of a many-sided interest. The oyster may find content in mud and high water, the cow in her cud and the shade of a tree. We of the great race of human-kind have long thought it better worth our while to count time by interests, images, thoughts, emotions, than by vacations and holidays. We like to live. We think living is worth while. And we put all we can into the field of our own intellect and emotions, that life may thereby be long, however short and few its days.

Going on with the argument for a moment: far more effective in playing on our emotions and broadening our horizon than single words, are words in combination. Here the skill of the artist comes in, and here, too, we get in greater strength the elements of memory, habit, association, and suggestion. This is a commonplace, the power of language; our dependence on it; the strong and many-stranded and multi-colored warp it makes for the wonderful tapestry of the life of man, of which our daily conduct is the woof.

It is a commonplace, but one that we find more marvelous, more admirable, fresher in its newness with each day's progress in our lifelong education.

Let me point my moral with a few simple phrases which your own manner of up-bringing has made fit to move you:

"In the beginning God created the heaven and the earth.

"And the earth was without form, and void; and darkness was upon the face of the deep; and the Spirit of God moved upon the waters. And God said, 'Let there be light: and there was light.

. . . . .

"Then the Lord answered Job out of the whirlwind, and said:

"Who is this that darkeneth counsel by words, without knowledge?

"Gird up now thy loins like a man; for I will demand of thee and answer thou me.

"Where wast thou when I laid the foundations of the earth? declare, if thou hast understanding.

"Who hath laid the measures thereof, if thou knowest; or who hath stretched the line upon it?

"Whereupon are the foundations thereof fastened? or who laid the corner thereof;

"When the morning stars sang together, and all the sons of God shouted for joy.

. . . . .

"Canst thou bind the sweet influences of Pleiades, or loose the bands of Orion?

"Canst thou bring forth Mazzaroth in his season; or canst thou guide Arcturus with his sons?

"Knowest thou the ordinances of heaven? Canst thou set the dominion thereof in the earth?

. . . . .

"The Lord is my Shepherd; I shall not want.

"He maketh me to lie down in green pastures: he leadeth me beside the still waters.

"He restoreth my soul; he leadeth me in the paths of righteousness for his name's sake.

"Yea, though I walk through the valley of the shadow of death, I will fear no evil: for thou art with me; thy rod and thy staff they comfort me."

. . . . .

Of the power of these phrases to move us I need not

speak. We read them, we hear them—and they conquer us.

We have come now to reading, and I am nearer the point I wish to impress upon you. I have reminded you that you live in words; that through them your life is compact of meaning and full of delights. I have needed but to hint that only by long study, by constant practice in them, by varied experience with thousands of them in many thousands of relations, have words come to bring to you a full burden of suggestion, a good measure of joy. The conclusion is plain. To live a full life we must win a full appreciation of all that words convey, we must understand their simplest message; also, we must feel their deeper significance, as when a master hand plays upon them and presents to us—as does Emerson, for example, in his “Concord Bridge”—a world of human nature and human life in a few short lines.

This is no question of A, B, C. This knowledge of words does not come at the end of the Fourth Reader. This is a matter of many men of talents as set forth in their books. To know life, to feel life, to know our fellows, to live, in a deep sense of that word, we must have met the kings among men in the words in which they have set themselves before us. The old things that belong to our race, the gods, the heroes, the scenes, the deeds, the fancies of our fathers’ fathers, all these we must have taken up into ourselves before life can have for us that fullness we desire. In a word, we must read.

We have come now to the relations of libraries and schools. The libraries are established that they may gather together the best of the fruits of the tree of human speech, spread them before men in all liberality and invite all to enjoy them. The schools are in part established that they may tell the young how to enjoy this feast. They do this. How much more they do for civility, honesty, and other simple and fundamental virtues in those first six years of school I am not here to tell you. They teach the young to read. They put them in touch with words and phrases; they point out to them the delectable mountains of human thought and action as set forth in “mere words,” and then they let them go. It is to be lamented that they go so soon. At twelve, at thirteen, at fourteen at the most these young men and women in your care, whose lives could be so

broadened, sweetened, mellowed, humanized by a few years' daily contact with the wisest, noblest, wittiest of our kind as their own words portray them—at this early age, when reading has hardly begun, they leave you, and they leave almost all of the best reading at the same time. If, now—and I told you my point is an old, familiar one, of which, none the less, I hope you will never tire—if now, you can bring these young citizens of yours into sympathy with the books the libraries would persuade them to read; if you make “mere words” inviting to them; if you can impress upon them the reading habit; then the libraries can supplement your good work; will rejoice in empty shelves; will feel that they are not in vain; and the coming generations will delight, one and all, in that which good books can give; will speak more plainly; will think more clearly; will be less often led astray by the “mere words” of false prophets of every kind; will see that all men are of the one country of humanity; and will, to sum it all, be better citizens of a good state.

To get children into the reading habit you need right at your elbow some of the good books the libraries contain. You need this one to help you in your work; that one to broaden, for the pupils, the text-book's limited view; another to tell them more of the great man or the notable event at which the lesson only hints. You need them to help you to find the one field of knowledge in which that boy, a seeming monument of indifference—and you all have such in your classes—may find an interest; and always you need them of many kinds to promote practice in reading, to encourage the reading habit, to send home with the pupils to their firesides.

The day will come when every schoolroom in the land will be a branch of its nearest library. All present tendencies in library work point that way. That is the relation of library and school I have worked towards for a good many years. Children must learn to read. They must learn to read readily, and to read understandingly. For this they need practice. They must form the habit of reading; and the habit of reading good things. And all this they must do before they leave your care at thirteen or fourteen years of age. The supplementary reader has done much in this direction. How much only the older among

you can realize. The libraries, with a branch in every school-room, will do more. What can you do to help them?

First, if you have a public library in your town make yourself familiar with it. Learn how to use it; how to get books from it; learn to use its books of reference, what its resources are in the lines you are teaching, and discover all the things it is willing and able to do for you in the way of books. Will it lend you an armful? Will it buy the books you ask for, if not already on its shelves? Will it welcome your pupils and lend them books? Will it receive courteously a roomful of them if they come for some reasonable purpose? Learn those things. You will find the learning a pleasure.

Next, test your own knowledge of the best books for the young. If you have not read them already, if evil fortune denied to your childhood the fearsome delight of discovering, with Crusoe, a strange footprint on the sandy shore; if you never saw Giant Despair overthrown, or the Sleeping Beauty wake, or the portcullis graze Marmion's plume, it is still not too late. You sinned, or were sinned against, or both. But the gateway to the realm of childhood's fancies is never closed. Get Scudder's "Children's Book" and read it through.

Read also the good books about children by grown up people for grown up people. Try Barrie's "Little White Bird," and see if birth and education have made you fit to enjoy a master of English, a man of tenderest sympathies, a prophet of the land of children.

All this, you may tell me you have done. This seems to you an old story. Your supplementary readers have brought you and your pupils into close touch with these things. Let us hope this is so.

But I believe you will find there is something yet to do in reading in which the library can be of help. Reading comes by practice. The practice which a pupil gets during school hours does not make him a quick and skillful reader. There is not enough of it. If you encourage the reading habit and lead that habit, as you easily can, along good lines, your pupils will gain much, simply in knowledge of words, in ability to get the meaning out of print, even though we say nothing of the help their reading will give them in other ways.

I have lectured you enough. I am afraid I may alarm you by my preaching; may make books seem a burden and public libraries things to be avoided. That would be a grievous mistake. Libraries are pleasant places. Their shelves do not groan with the wisdom that is on them. They delight in their burdens. Their books are like your own companions, grave or gay, as nature made them. And one may believe that the great men, our fellows, who made the best of them, rejoice mightily when any words of theirs add to the happiness of any of us.

Libraries are founded to add to the joy of our lives and to lighten your daily work.

# THOMAS DARLINGTON

## OUR ASSOCIATION

Dr. Thomas Darlington was born in Brooklyn, September 24, 1858. He has practiced medicine since 1880, and was commissioner and president of the New York Board of Health from 1904 to 1910. He is a member of many associations and a leader in many worthy causes. The following address was made at the annual dinner of the American Climatological and Clinical Association in the City of Washington, D. C., May 3, 1922.

How pleasant it is to come together again with cheerful greetings and listen to the messages we have just heard, and especially to the address last evening by the President of the Congress,\* which was expressed with such unusual felicity of language. I cannot refrain from expressing my admiring appreciation of his excellent address. Truly, we imbibe an optimism which will remain with us some time to come. In fact, I feel like the Irishman in the hospital who said, "Doctor, what's the matter with me?" "You have gangrene." "Gangrene, is it? Well, thank God, the color of it is right."

After listening to the President's address, I found myself wishing that there were two of him so that we might have him always with us. But that could only happen in the pre-prohibition days, as illustrated by two Scotchmen, who were returning home after having imbibed all that was good for them. As they neared home, they straightened up a bit and one called back to the other, "Sandy, how am I walking?" He answered, "You are doing very weell, mon, but who's that with you?"

As to certain questions regarding group specialists and the way they do some things, I was reminded, while the Doctor was talking, of an incident that happened in Atlanta. There was a certain man who made himself a general nuisance by going from office to office and taking up time with the proposal of schemes.

\* Dr. Frank Billings.

On one occasion, having been put out of an office on the fourth floor, he went back in again. This time, when they put him out, they led him to the head of the stairs and kicked him down the flight. At the bottom was a man whom he had also annoyed, who gave him another kick, and he went down the second flight. Here another one, thinking that he might be an escaping burglar, threw him down the next flight. At the bottom of the next stairs was the janitor who promptly kicked him out into the gutter, but he made no complaint or outcry. He rose, brushed off his clothes and looking up at the building, exclaimed, "My God, what a system!"

Medicine has existed many centuries and she has so much behind her. We have obtained a glimpse of the future this evening. I was reminded in this connection of a young man in New York who went to see the play of Hamlet, and was very much interested, so much so, that on leaving and coming out through the lobby, he said to a man near him, "Say, can you tell me the name of the guy what wrote that play?" "Yes," said the other, "the gentleman's name is William Shakespeare." "Well, say," he said, "you take it from me, he has a great future before him."

I am deeply sensible of the honor your President has conferred upon me when he invited me to address you this evening. I will, however, confess that at first I demurred. You have heard me so many times, at every meeting that I have attended—and I have been at most of them for the last thirty years. Besides, I had a shock last fall. During the political campaign, just as I had finished addressing a meeting and started toward the door, I heard a man say rather loudly, "I want to come in." But the policeman at the door said, "You can't come in, you're drunk." He said, "Well, I want to hear Dr. Darlington speak." Again the policeman said, "You can't, you're drunk." "Well," he said, "do you think I would want to hear him if I wasn't drunk?" However, I did accept, and here we are, and I am glad to see so many of you here. This reminds me of an incident that happened to our Governor, Alfred E. Smith. He was looking over the prisons, and at Sing Sing was asked to say a few words to the inmates. He began by saying, "Fellow citizens," but immediately recollected that would not do, as

they had lost their citizenship; so he began again by saying, "Fellow convicts"; but that would never do for the Governor of the State; so he said, "I don't know just how to address you, but I am glad to see so many of you here."

Then came the difficulty of choosing a topic—and it came to my mind that I was much in the position of Mary O'Brien, who was given a piece of wedding cake to sleep upon so that she might dream, as she expressed it, of her future "financé," and the next day when asked about it, "What do you think," she said, "I dreamt of the 69th Regiment."

But enough of stories. The prologue of Henry VIII. commences, "I come no more to make you laugh; things (now) that bear a weighty and a serious brow—we now present."

To-night brings back very vividly our meeting of last year. How much we enjoyed our stay at Lenox under the brilliant leadership of Carrol Edson whom we miss this year! We missed there the faces of some of those dear to us whom we have been accustomed to see at each meeting: Smiling and gentle Tom Coleman, impetuous Charley Minor and others. It seems but yesterday, and as one year has passed, so have thirty; and to-night my thoughts go back to the congress of 1891. Elected in 1890, it was my first meeting with this Association. What giants were there—Trudeau, Loomis, Knight, Curtin, Solly, Fiske, Musser, Gihon, Shurley and many others—men who loved their fellow-men and proved it by their service—men with a breadth of outlook who could foresee things—men who kept straight in the path of duty, who gave always the right hand of fellowship, *real leaders*; and here we felt the contagion of their noble lives. It was a privilege to know them. With such as these, the past of this Society is secure—secure in the names of her honored dead whom we present as patterns and incentives for the emulation of those who come after. The reading of the list sounds like the eleventh chapter of Hebrews; the register of a regiment—the records of soldiers who won high achievements—"Being dead they yet speak."

It is narrated of a certain French soldier who won great and deserved praise for his valor, and who refused promotion in order to remain with his comrades, that being killed in

battle his comrades petitioned that his name might remain on the roster of the company. At roll call the first name called is Latour D'Auvergne; when the oldest sergeant responds "Dead on the field of honor."

Thus we illustrate the paradox that he being dead yet lives and speaks to us in the hearts of this company, speaks to us of its worth, and the immortality of glorious deeds.

Thus we learn that by right living, by unselfish acting, by devotion to high purpose and to our fellows we shall deserve a place in the hearts of the good for all ages. We should press forward in their steps, emulate their virtues, and their might, and extend their conquests.

It is one of the traditions of the age of chivalry that a Scottish king, when dying, bequeathed his heart to the most trusted and beloved of his nobles to be carried to Palestine. Enclosing the precious deposit in a golden case and suspending it from his neck, the knight went out with his companions. He found himself, when on his way to Syria, hard pressed in battle by the Moors of Spain. To animate himself to greater effort that he might break through his thronging foes, he snatched the charge entrusted to him from his neck and flinging it into the midst of his enemies, exclaimed, "Forth, heart of Bruce, as thou wast wont, and Douglas will follow thee or die." The hearts of our honored dead have gone in advance of us. Ours is the task to follow.

So much for the men. What of the work? I wonder if the younger men of this Association know that out of the work of its members has grown the greater part of the campaign against tuberculosis? That largely from this Society sprang the National Tuberculosis Association? It would be impossible to measure all of the work that this Society has accomplished. One of the visions of the prophet Zechariah is that of a young man carrying a measuring line. When the prophet asked of him "Whither goest thou?" he answered, "I go to measure Jerusalem. To see what is the breadth thereof and what is the length thereof." Truly in one sense a hopeless task. He might have dragged his line around the circumference of Jerusalem, but would that have measured it? Jerusalem, the center of the devotion of a nation, the symbol of a world redeemed!

Jerusalem, its streets to be trod by the feet of the Saviour of mankind! Measure it with a tape line? Now can we measure a spiritual thing in such a manner? Can you measure the flag of our Country—that which men have died for and which stands for all we hold as sacred in this Nation? How can we measure this Society? We cannot measure its past, and who can measure its future?

What of its future? It is to this subject that I would especially invite your attention.

We, as an Association, are largely made up of two elements. Suppose we call them clinical and climatological. In one group, largely men who specialize—in the other, general practitioners. I am glad there are not three elements—for I feel as the Irishman did on the announcement that his wife had presented him with twins. "All the money in the world wouldn't buy one of them but I wouldn't give tin cints for another." The great difficulty that we face is that between these two elements, differences and dissensions may creep in. Some will not like the report of the council, or of the nominating committee, or a certain officer is not in their opinion up to the standard of what they conceive such an officer should be. Such things frequently grow out of a lack of knowledge of each other's work; and so twice I have proposed to the Council that we acquaint ourselves with the work of each member. This year I hope it becomes an accomplished fact. Personally, I believe that differences grow largely out of misunderstanding.

During the war a number of coolies were gathered up and taken by boat to France. After they had been out a few days the captain discovered a plot to kill the cook, so he got the leaders together and asked them about it. They said it was so. He wanted to know what the trouble was. They said it was in regard to the food. "Why," said the Captain, "don't you get enough to eat?" "Yes," they said. "Isn't it cooked well?" "Yes." "Doesn't it taste good?" "Yes," again they answered. "Then, what is the matter?" "Why," they said, "we can't keep it down." They did not know that the movement of the vessel affected their semi-circular canals. A second lesson we learn from this is, that it doesn't do to rock the boat.

One thing is certain, if we are to continue to succeed as an

organization, we must not have any petty differences. Let us begin by *knowing* each other. In my younger days we used to sing a hymn, "We Shall Know Each Other There." Is there any objection to knowing each other *here*? The success of this organization depends not alone on what we measure individually, but on the strength of the whole organization. As Kipling says:

Now this is the Law of the Jungle,  
And the Law runneth forward and back:  
The strength of the pack is the wolf,  
And the strength of the wolf is the pack.

Many lead entirely different kinds of lives and so see things from a different view-point. What we must have is the welding together of the strongly differentiated elements and bringing them into strength and fruitfulness—into a common life.

Perhaps we are much like the Irish, and as one of their own explains it, "Some are Protestants and some are Catholics. If we were all Atheists we would be better Christians."

As Prof. Bunsen has said, there are two distinct classes of men, first, those who work, enlarging the boundaries of knowledge, and secondly, those who apply that knowledge to useful ends. And we have both; but like the hand and the eye, both are members of the same body. If the hand is necessary to the body, as it is, moving quickly, thrusting vigorously and grasping firmly, is there on that account no room or need in the body for the eye, because its usefulness is quite another kind? It holds in silence and fixedness its own place in its ever quiet watch tower, neither going out of its own place nor lifting a finger's weight of the obstacle before it.

Whether we belong to one class or the other, we should be all interested in every topic that comes before our Society. I am sure none of you want to be considered as exclusively specialists, and the reason is best illustrated by an incident. A man saw his friend looking serious and asked, "What is the matter?" "My wife is sick and the doctor told me to see a specialist, and I don't like that." The friend said, "Neither do I." "Why," said the man, "why don't you like him?"

"Well," said he, "you see, a specialist is a man who hasn't brains enough to do more than one thing, or kind of work."

Let us look into this subject from another point of view. There are two *great* reasons for the existence of a medical society. One is increase of knowledge. The education of a physician does not end with graduation—it is continuous through life. We all feel that it is a distinct loss when we are prevented from attending these meetings. It is one thing to read an article in a medical journal—it is entirely different to hear and to know the author and to listen to, or take part in the discussion. Knowledge so obtained is serviceable.

To see and to hear and to be acquainted with studious men and workers is of great advantage. And the second great reason is sociability. To cultivate good fellowship—for unity and friendship. Strife is the life of a doctor, but here in the sacred precincts of this Association it should cease. Let us remember our Litany—"From all hatred, from all malice and all uncharitableness, good Lord, deliver us." If for any reason in the future this second object of the Society is surrendered, the greatest incentive to come to the meetings shall have been taken away. Those associations that exist purely for scientific purposes generally die of dry rot. In a purely scientific association a third object is generally the greatest—(with us only incidental)—that is, the advancement of self. When this becomes the *prime* object—the society's death knell has been sounded. I count it not the least of the attributes of the profession of medicine that it is based on such a high ethical plane that self-aggrandizement is self-disgrace. The greatest honor comes to him in whom thought of individual credit is discounted in the service of universal good. True public service can never emanate from selfish ends.

The world is subject to continual change. What changes have taken place since 1914? Always like the kaleidoscope—turned over and over with continually new views. But there are some things that never change—and these are faith, hope and love—"And now abideth these three." We are physicians largely because of our love of humanity—because we love our profession—and we must apply this to our association. If we are merely scientists and money makers we get nowhere. We

might get to be as one man has expressed it, like the F. A. C. S. "Fellows After Coins and Shekels."

We can make our association so scientific as to lose sight of friendship and fellowship. I trust we will never get to the place where we will be like a certain exclusive club I heard of in London. A gentleman who was a member, on a slippery winter day fell as he was going down the front steps. As he fell, another member, coming up the steps ran to his assistance and said, "Oh, my dear sir, I'm afraid you are hurt," and as he looked in his face he saw a tear falling. "Oh," said he, "I'm sure you are badly hurt, let me do something for you." To which the other replied, "Oh, I'm not hurt a bit, but I'm deeply touched. I've been a member of this club for thirty-five years and you're the first member who has spoken to me."

How may we continue and widen our influence? Let us remember first that we have a noble heritage. Here we have rank—and rank imposes obligations, "*Noblesse oblige*." Let us never forget that we belong to that profession which, founded four hundred years before the birth of Christ, the chosen work of the Saviour himself, stands to-day as the most lofty, the most far-reaching and the most benign of all modern sciences. From trial and sacrifice we have gathered flowers of philosophy and fruits of wisdom, and wreaths such as a battle cannot give. We have companionship with men that are courteous, condescending, compassionate, whose happiness is in curing disease rather than in accumulating large fortunes. I often think of what Dickens makes his heroine say in "Bleak House."

"We are not rich in the bank, but we have always prospered, and we have quite enough. I never walk out with my husband but I hear the people bless him. I never enter a house of any degree, but I hear his praises, or see them in grateful eyes. I never lie down at night but I know that in the course of that day he has alleviated pain and soothed some fellow creature in the time of his need. I know that from the beds of those who are past recovery, thanks have often, often gone up for his rich ministrations. Is not this to be rich?"

I have read that in an obscure New England town there is a house built of cobble stones, every one of which represents a deed of kindness or of charity. It is the house of a physician,

unknown to fame, and these stones were carried one by one from hundreds of homes, during many years, as souvenirs of grateful hearts. It is a glorious monument of a well-spent life—a mosaic of charity. Every stone a tale of love and gratitude.

Ever since sickness and suffering have come into the world, have come the desire and the effort to relieve it. Daily the members of the medical profession do deeds of heroism for humanity's sake. But this, high as it is, is not enough. We must add to our work. We are living in a period of advancement, with frequent discoveries which should benefit mankind. But of what use are these things if, because of moral conditions it is impossible to obtain happiness?

Our duty as citizens is not a solitary one—that of being doctors. It is connected with all of the duties that belong to us as men, and as citizens; social, civil; those virtues that are requisite to render us worthy of a continuation of our government. Our own times admonish us of our danger and our duty.

Lust of empire brought a devastating war, with its wanton destruction, and its inevitable ruthlessness; where the crime of Cain was multiplied a thousandfold; and after four years left the world in a dilapidated and demoralized condition with vision obscured, morals perverted, progress interrupted, economic structures disjointed or demolished, and great damage done to the spirits and souls of men. It seems difficult for men to think straight or act intelligently. It is a time of moral unsettlement. One thing, however, has been clearly shown, and that is the futility of war as a means of settling disputes. What has been done is a crushing indictment of twentieth century civilization. We must take our places in the world's work of rehabilitation and reconstruction, not alone of bodies and of minds, but of spirit. Things will grow worse unless we strive to make them better.

We must not shrink from the task. Let it be said that amid declining morals and waning patriotism that physicians as a class still remain to carry aloft in triumph the standard of the country's greatness, its honor, its good. May we have our part in bringing in a new and better day.

Our first duty is a part of the economic problem. To lessen the cost of living and reduce taxes by reducing illness. The great war debt could be paid in a short time if there were no sickness.

Consider the loss of time from work and the cost of the care of the more than four millions of sick persons who annually pass through the hospitals of the United States. Consider the cost of illness among school children. On account of illness many children lose place in their classes. Consider also the cost of illness in industry, the loss of wages by absence from work and diminished efficiency before recovery, resulting in diminished production and poorer work. Consider the loss to young, married couples unable through illness to pay the amortization on their loan on mortgage and the ultimate loss to the house. Consider also the loss of men who stand high in the business world, such as the chairman of the board of directors, or manager of a large industry. His experience and education make him constantly more valuable, and his premature death is often the most serious loss. Fully one-half of these cases that I have mentioned are preventable.

We must educate the public as to this matter and we must help to re-educate it as to morals. What government is, is determined by the people it raises. Physicians must do their share. It is not enough to talk to our patients and in private. Statesmen, Doctors of Divinity and laymen trained in public speaking have held the platform. Physicians as a rule have not been noted in this line, but it seems to me the time has come for us to take our place at such gatherings.

A man learns to swim by going into the water, so I feel that in the future at our meetings, the many should say something, not so much for the effect upon the audience, their fellows, as for the good it does the speakers. The good of teaching a class in Sunday School is not so much the effect upon the scholars as upon the teachers. I know it is difficult.

A man once said to Mr. Edison—"Don't you think genius is inspiration?" He replied, "No, genius is perspiration."

So individually at our feasts let us be reminiscent, or commemorative, or congratulatory, or tell an incident, a story—humorous or otherwise.

Bok tells the story of a boy who had been at school for a year when the teacher said, "William, I'm afraid your father won't think I'm doing well by you. You must write a composition and send it to him." But William does not know how. "Oh, write something you know about, something about the farm." So William writes: "A cow is a useful animal. A cow has four legs and two horns. A cow gives good milk. I love good milk. William Bradshaw." "Pooh," says the teacher. "That will never do. Give me that composition." So he takes it home and fixes it. "When the sun casts off the dusky garments of night and appearing over the orient hills, sips the dew drops pendent from every leaf, the milkmaid goes afield merrily chanting her morning song," etc. But that does not do Bill much good. The few scrawly lines he put on the paper were worth far more to him than all the fine phrases of the teacher.

And the place to begin is in this society. I did.

For more than ever there is need of the diffusion of knowledge such as we may give, and, while we have written much, writings do not always appeal. There is so much in the eye, the voice and its inflections and gestures, all of which help to impress upon our hearers the truths we wish to convey.

One of the things we need most in this country at this and all times is equanimity. We expected Dr. Vincent here. He would have told us that much of this may be learned from the Chinese. If the teachings of Confucius can produce so wonderful an effect on these people, how much greater should be the effect of the Christian religion in this country—especially on those who profess it. So alike in teaching, but so different in the reasons therefor, the doctrine of Confucius teaches one to be good for good's sake—but the reason for good in the Christian religion is contained in those wonderful lines of the old Latin hymn, the *Dies Iræ*, which Boswell says that Dr. Johnson could never repeat without bursting into tears:—

*'Quaerens me, sedisti lassus  
Redemisti, crucem passus;  
Tantus labor non sit cassus.*

Translated by one of the acquaintances of my youth, Abram Coles:

Seeking me, Thy worn feet hasted,  
On the cross Thy soul death tasted;  
Let such travail not be wasted.

or as an older translation gives it:

Wearily for me thou soughtest,  
On the cross my soul thou boughtest,  
Lose not all for which thou wroughtest.

According to the program Dr. Vincent was to have talked on medicine; and, I to preach the sermon. I have been somewhat fearful in talking on the subjects I have presented to you, that you may have been placed in the position of a man who went one Sunday evening to a country church, where the clergyman announced before the sermon that at the close of the services there would be a meeting of the Board. When the services closed my friend stayed and went up to the front—and the minister said, "Haven't you made a mistake? I said there would be a meeting of the Board." "Well," said he, "if there is anyone more bored than I am it would be hard to find him."

Let us grow each year. The seed is cast into the soil, and drinking in the dew and the rain and air, adds to itself a root; the root, the stem; the stem, the branches, and gradually twigs, buds, leaves, flowers and finally fruits. So we gradually grow, but also gradually we change. From my window in the country I can see a massive pine. Below, the branches are dead, but above, towering over the neighboring trees, are beautiful branches of ever living green, and cones for future trees; constantly adding above, while below, the branches, once so necessary, are dead and dropping away. Shall I draw the analogy? Let us grow like that pine. What vision we will then obtain above our fellows, what seed we may drop for future generations! And many of the things that once seemed so necessary, the paths and pleasures we once pursued, we now need no longer. But some desire to reach these heights at once. . . . "But 'tis only in dreams that we reach the sapphire walls by Jacob's ladder." No—

Heaven's not reached with a single bound.  
We build the ladder by which we rise  
From the lowly earth to the lofty skies,  
And we mount to its summit round by round.

Rather we must grow as the Chambered Nautilus told of by  
the poet physician, Oliver Wendell Holmes.—

Build thee more stately mansions, O my soul,  
As the swift seasons roll!  
Leave thy low vaulted past!  
Let each new temple, nobler than the last  
Shut thee from heaven with a dome more vast,  
Till thou at length art free,  
Leaving thine outgrown shell by life's unresting sea.

So must we work, so must we grow, but let us work together.

Like rills from the mountains together that run,  
And make the broad river below;  
So each little life, and the work of each one  
To one common current shall flow,  
And down on its bosom, like ships on the tide  
The hopes of mankind shall move on;  
Nor in vain have we lived, nor in vain have we died  
If we live in the work we have done.

# CLARENCE DARROW

## A PLEA FOR MERCY

Clarence Darrow (1857-1938), one of the best-known members of the legal profession, was born in Kinsman, Ohio. He was identified with many prominent cases, notably cases against monopolies and in defense of labor leaders. His name was brought before the public especially as counsel for Loeb and Leopold on trial for murder in August, 1924, and as counsel for the defense in the Scopes trial.

Mr. Darrow was famed as a crusader for the reform of our methods of dealing with criminals and especially in connection with the agitation for the abolition of capital punishment. As a crusader, his opinions have naturally roused great discussion and none, perhaps, more than his plea for mercy for Loeb and Leopold.

The entire plea occupied one hundred and twenty pages of printed matter and, of course, discussed exhaustively the evidence offered. The conclusion of the speech only is here reprinted. It is undoubtedly a masterpiece of pleading and a denunciation of the futility of capital punishment.

Now, your Honor, I have spoken about the war. I believed in it. I don't know whether I was crazy or not. Sometimes I think perhaps I was. I approved of it; I joined in the general cry of madness and despair. I urged men to fight. I was safe because I was too old to go. I was like the rest. What did they do? Right or wrong, justifiable or unjustifiable—which I need not discuss to-day—it changed the world. For four long years the civilized world was engaged in killing men. Christian against Christian, barbarian uniting with Christians to kill Christians; anything to kill. It was taught in every school, aye in the Sunday schools. The little children played at war. The toddling children on the street. Do you suppose this world has ever been the same since then? How long, your

Honor, will it take for the world to get back the humane emotions that were slowly growing before the war? How long will it take the calloused hearts of men before the scars of hatred and cruelty shall be removed?

We read of killing one hundred thousand men in a day. We read about it and we rejoiced in it—if it was the other fellows who were killed. We were fed on flesh and drank blood. Even down to the prattling babe. I need not tell your Honor this, because you know; I need not tell you how many upright, honorable young boys have come into this court charged with murder, some saved and some sent to their death, boys who fought in this war and learned to place a cheap value on human life. You know it and I know it. These boys were brought up in it. The tales of death were in their homes, their playgrounds, their schools; they were in the newspapers that they read; it was a part of the common frenzy—what was a life? It was nothing. It was the least sacred thing in existence and these boys were trained to this cruelty.

It will take fifty years to wipe it out of the human heart, if ever. I know this, that after the Civil War in 1865, crimes of this sort increased, marvelously. No one needs to tell me that crime has no cause. It has as definite a cause as any other disease, and I know that out of the hatred and bitterness of the Civil War crime increased as America had never known it before. I know that growing out of the Napoleonic wars there was an era of crime such as Europe had never seen before. I know that Europe is going through the same experience to-day; I know it has followed every war; and I know it has influenced these boys so that life was not the same to them as it would have been if the world had not been made red with blood. I protest against the crimes and mistakes of society being visited upon them. All of us have a share in it. I have mine. I cannot tell and I shall never know how many words of mine might have given birth to cruelty in place of love and kindness and charity.

Your Honor knows that in this very court crimes of violence have increased growing out of the war. Not necessarily by those who fought but by those that learned that blood was cheap, and human life was cheap, and if the State could take it

lightly why not the boy? There are causes for this terrible crime. There are causes, as I have said, for everything that happens in the world. War is a part of it; education is a part of it; birth is a part of it; money is a part of it—all these conspired to compass the destruction of these two poor boys.

Has the court any right to consider anything but these two boys? The State says that your Honor has a right to consider the welfare of the community, as you have. If the welfare of the community would be benefited by taking these lives, well and good. I think it would work evil that no one could measure. Has your Honor a right to consider the families of these two defendants? I have been sorry, and I am sorry for the bereavement of Mr. and Mrs. Frank, for those broken ties that cannot be healed. All I can hope and wish is that some good may come from it all. But as compared with the families of Leopold and Loeb, the Franks are to be envied—and everyone knows it.

I do not know how much salvage there is in these two boys. I hate to say it in their presence, but what is there to look forward to? I do not know but what your Honor would be merciful if you tied a rope around their necks and let them die; merciful to them, but not merciful to civilization, and not merciful to those who would be left behind. To spend the balance of their days in prison is mighty little to look forward to, if anything. Is it anything? They may have the hope that as the years roll around they might be released. I do not know. I do not know. I will be honest with this court as I have tried to be from the beginning. I know that these boys are not fit to be at large. I believe they will not be until they pass through the next stage of life, at forty-five or fifty. Whether they will then, I cannot tell. I am sure of this; that I will not be here to help them. So far as I am concerned, it is over.

I would not tell this court that I do not hope that some time, when life and age have changed their bodies, as they do, and have changed their emotions, as they do—that they may once more return to life. I would be the last person on earth to close the door of hope to any human being that lives, and least

of all to my clients. But what have they to look forward to? Nothing. And I think here of the stanza of Housman:

Now hollow fires burn out to black,  
And lights are fluttering low:  
Square your sholders, lift your pack  
And leave your friends and go.  
O never fear, lads, naught's to dread,  
Look not left nor right:  
In all the endless road you tread  
There's nothing but the night.

I care not, your Honor, whether the march begins at the gallows or when the gates of Joliet close upon them, there is nothing but the night, and that is little for any human being to expect.

But there are others to consider. Here are these two families, who have led honest lives, who will bear the name that they bear, and future generations must carry it on.

Here is Leopold's father—and this boy was the pride of his life. He watched him, he cared for him, he worked for him; the boy was brilliant and accomplished, he educated him, and he thought that fame and position awaited him, as it should have awaited. It is a hard thing for a father to see his life's hopes crumble into dust.

Should he be considered? Should his brothers be considered? Will it do society any good or make your life safer, or any human being's life safer, if it should be handed down from generation to generation, that this boy, their kin, died upon the scaffold?

And Loeb's, the same. Here are the faithful uncle and brother, who have watched here day by day, while Dickie's father and his mother are too ill to stand this terrific strain, and shall be waiting for a message which means more to them than it can mean to you or me. Shall these be taken into account in this general bereavement?

Have they any rights? Is there any reason, your Honor, why their proud names and all the future generations that bear them shall have this bar sinister written across them? How many boys and girls, how many unborn children will feel it? It

is bad enough as it is, God knows. It is bad enough, however it is. But it's not yet death on the scaffold. It's not that. And I ask your Honor, in addition to all that I have said, to save two honorable families from a disgrace that never ends, and which could be of no avail to help any human being that lives.

Now, I must say a word more and then I will leave this with you where I should have left it long ago. None of us are unmindful of the public; courts are not, and juries are not. We placed our fate in the hands of a trained court, thinking that he would be more mindful and considerate than a jury. I cannot say how people feel. I have stood here for three months as one might stand at the ocean trying to sweep back the tide. I hope the seas are subsiding and the wind is falling, and I believe they are, but I wish to make no false pretense to this court. The easy thing and the popular thing to do is to hang my clients. I know it. Men and women who do not think will applaud. The cruel and thoughtless will approve. It will be easy to-day; but in Chicago, and reaching out over the length and breadth of the land, more and more fathers and mothers, the humane, the kind and the hopeful, who are gaining an understanding and asking questions not only about these poor boys, but about their own—these will join in no acclaim at the death of my clients. These would ask that the shedding of blood be stopped, and that the normal feelings of man resume their sway. And as the days and the months and the years go on, they will ask it more and more. But, your Honor, what they shall ask may not count. I know the easy way. I know your Honor stands between the future and the past. I know the future is with me, and what I stand for here; not merely for the lives of these two unfortunate lads, but for all boys and all girls; for all of the young, and as far as possible, for all of the old. I am pleading for life, understanding, charity, kindness, and the infinite mercy that considers all. I am pleading that we overcome cruelty with kindness and hatred with love. I know the future is on my side. Your Honor stands between the past and the future. You may hang these boys; you may hang them by the neck until they are dead. But in doing it you will turn your face toward the past. In doing it you are making it harder for every other boy who in ignorance and

darkness must grope his way through the mazes which only childhood knows. In doing it you will make it harder for unborn children. You may save them and make it easier for every child that sometime may stand where these boys stand. You will make it easier for every human being with an aspiration and a vision and a hope and a fate. I am pleading for the future; I am pleading for a time when hatred and cruelty will not control the hearts of men. When we can learn by reason and judgment and understanding and faith that all life is worth saving, and that mercy is the highest attribute of man.

I feel that I should apologize for the length of time I have taken. This case may not be as important as I think it is, and I am sure I do not need to tell this court, or to tell my friends that I would fight just as hard for the poor as for the rich. If I should succeed in saving these boys' lives and do nothing for the progress of the law, I should feel sad, indeed. If I can succeed, my greatest reward and my greatest hope will be that I have done something for the tens of thousands of other boys, for the countless unfortunates who must tread the same road in blind childhood that these poor boys have trod—that I have done something to help human understanding, to temper justice with mercy, to overcome hate with love.

I was reading last night of the aspiration of the old Persian poet, Omar Khayyam. It appealed to me as the highest that I can vision. I wish it was in my heart, and I wish it was in the hearts of all.

So I be written in the Book of Love,  
I do not care about that Book above.  
Erase my name or write it as you will,  
So I be written in the Book of Love.

# JOHN WILLIAM DAVIS

## OUR BRETHREN OVERSEAS

John W. Davis was born at Clarksburg, W. Va., 1873, graduated from Washington and Lee University in 1892, and received his law degree there in 1895. He was member of Congress 1911-1913, resigning to become Solicitor-General of the U. S. He was ambassador to Great Britain 1918-1921, distinguishing himself in this difficult position by the unusual quality and felicity of his public addresses. In 1924 he was the Democratic candidate for President. The following address was delivered before the American Bar Association at its annual meeting in Cincinnati, Sept. 1, 1921. Other speeches by Mr. Davis are given in Volume I.

A sound rhetorical canon forbids the introduction of any address by an apology. No apology, however, is necessary to preface the statement that what I shall have to say to you has no tangible connection with any of the grave perplexities that vex the world to-day. I shall call upon you to solve no riddles and demand no action within the competence of this Association. With the hope that you may be willing to forgo consideration of international and domestic problems for lighter if more familiar things, I shall ask you to listen to some random observations on the organization of the legal profession in England and the administration of English justice. An American in Great Britain faces no sudden shock from an unfamiliar tongue and the activities of political, commercial and professional life are easily translated into terms of his own experience; yet with all due allowance for these essential facts, there is enough of novelty to engage his interest and reward his study.

Any effort to picture the life of an English lawyer begins almost of necessity with the Inns of Courts, those venerable institutions called by Jonson, "the noblest nurseries of liberty and

humanity in the Kingdom," or as a less noble poet writes, in parody of Milton:

Yet not the more,  
Cease I to roam through Elm or Garden Court,  
Fig Tree or Fountain side or learned shade  
Of King's Bench Walk, by pleadings vocal made;  
Thrice hallowed shades! Where slip-shod Benchers muse,  
Attorneys haunt and Special Pleaders cruise.

Entering from the Thames embankment alongside the garden made famous by the plucking of the white rose and the red, the visitor when enfolded by the quiet precincts of the Temple, seems to walk at once in a world apart. The ancient dining hall of the Middle Temple, graced in its day by Shakespeare and his Virgin Queen, stands as it has done for centuries, filled with its long rows of tables for the students and members of the Inn, and its high table of mighty English oak for the reverend Benchers. Across Temple Lane rise the buildings of the inner Temple, less venerable in time by reason of fire, yet preserving nevertheless traditions running to the year 1327, when the Knights Hospitalers of St. John of Jerusalem farmed the manor and place of the New Temple to the professors and students of the day. Here, too, is the old Temple church, consecrated in 1185 by Heraclius, Patriarch of Jerusalem, where the organ selected by Jeffery of the Bloody Assizes still discourses its music to the sculptured knights upon the pavement and the pious lawyers in their pews.

Through busy Fleet Street and up Chancery Lane the way lies to the stately buildings of Lincoln's Inn adjoining Lincoln's Inn Fields, of which a contemporary wrote in 1735 that "from a heap of rubbish and the receptacle of ruffians and vagabonds is made one of the finest squares in the world." The place has had its turbulent history. In 1629, for instance, a royal messenger holding a warrant of arrest, found his man in Lincoln's Inn Gardens, but forbore to touch him out of respect for the place; but when the messenger had quietly gone into the street, about thirty gentlemen of the Inn, who felt that his very presence had been an insult to their privilege, "fetched him into the house, violently pumped him, shaved him and disgracefully

used him." Here, too, stood the old Blue Boar Inn at which Cromwell and Ireton, disguised as robbers, awaited the soldier who carried sewn into his saddle a letter from Charles the First to his Queen. While the soldier was detained within, they cut open the saddle, extracted the letter containing certain proof of Charles' incurable and incessant treachery, and sent the messenger on his way unwitting of his loss. And then crossing Holborn, one comes to Gray's Inn to tread the pavement where the weary feet of Francis Bacon paced so many a round after his fall from place and power, and where, within sight of his statue in the outer court, one may still be shown the sacramental cup from which his sad lips drank.

The impression of age and antiquity which such a journey leaves is not lost even when one enters the Royal Court of Justice, for though built only in 1886 the design of the architect and the smoke of London have combined to make the buildings seem years older than they are, and in the hurrying figures of gowned and bewigged barristers and the red-robed judges on the Bench, one recognized forms familiar for centuries in legal portraiture. No degree of intimacy with the traditions which cluster round these halls or with the costume of the dwellers there can drive from the mind of the American visitor the contrast with his less ancient temples and the highly informal garb of their priests and acolytes. Only when he has tarried to witness the courts in action does this sense of the unusual wear away; for then he finds the rôles of law invoked are those upon which he was nurtured, the examination of witnesses is conducted in the manner and by methods he has himself employed, and judgment is rendered in language drawn from the very precedents he has been taught to revere. As he watched the triumphant victor or disgruntled vanquished leave the arena he feels, to paraphrase John Bunyan, that "but for the grace of God" and the lack of a wig and gown there might he go himself.

"The best prospects," said Disraeli, "that the law holds out to a man is port and bad stories until he is fifty and then a peerage." Two of these rewards are obviously beyond the present reach of the American lawyer, no matter on which side of fifty he may find himself. It must be admitted that there are other differences between the lawyers of England and our-

selves hardly less definitive. Of these the most pronounced perhaps are those which spring from the methodical, and from the American point of view, the somewhat rigid organization of the legal profession itself. In large part this organization is the result of slow-moving historical causes, but it springs also from that innate love of established order and custom which is one of the strongest instincts of the English race. The rank and precedence which obtain are not based upon any innate sense of superiority or inferiority among men—indeed the underlying philosophy of the English state is as profoundly egalitarian in point of human rights as that of America—but there is a desire to know and a willingness to recognize the exact limit of the sphere to which one has been assigned by the choice or fate that is not felt in a newer society. The table of legal precedence accordingly is quite definite. It begins at the apex with the Lord Chancellor as the highest legal dignitary of the Kingdom and descends by successive gradation as follows:

The Lords of Appeal;  
The Lord Chief Justice of England;  
The Master of the Rolls;  
The Lords Justices of the Court of Appeal (according to seniority of appointment) and the  
President of the Probate, Divorce and Admiralty Division;  
Judges of the High Court (according to seniority of appointment);  
The Judge of the Arches Court;  
The Attorney-General;  
The Solicitor-General;  
The Judge of the County Courts;  
King's Counsel, and such as have patents of precedence;  
The Recorder of London;  
The Common Sergeant of London;  
Doctors of Civil Law;  
Doctor of Laws;  
Barristers-at-law;  
Proctors;  
Solicitors.

Among barristers, there is not only the distinction which prevails between the mere utter barrister in his stuff gown and the King's Counsel in his glistening silk, but there is precedence based upon the date of one's call to the Bar, which is not entirely devoid of consequence in professional life. No King's Counsel can hold a brief for the plaintiff on the hearing of a civil cause, in the High Court, Court of Appeal or House of Lords, without a Junior, and it is quite unusual that he should do so even when appearing for the defendant in a civil case or upon a criminal trial. While among those of lesser rank, no barrister should accept a junior brief for a barrister junior to himself in point of call, and as the table shows any and every barrister outranks all his legal brethren of the lower branch. Indeed, some years ago a solicitor rather bitterly remarked that "a barrister is to a solicitor what a peer is to a law stationer." Among solicitors themselves a greater equality obtains; or perhaps it would be fairer to say that their struggle for existence is neither helped nor hampered by questions of relative rank.

Mere questions of precedence aside, however, the whole scheme of legal life in Great Britain is built upon the hard and fast division between the barrister on the one hand and the solicitor on the other. It is a distinction which tradition, custom and positive law combine to maintain inviolate and inviolable; and to say that is analogous to the difference with which we are familiar between the "court lawyer" and the "office lawyer" tells but half the story. Pollock and Maitland assert that historically considered "these two branches have different roots; the attorney represents his client and appears in his client's place, while the countor speaks in behalf of a litigant, who is present in court either in person or by attorney." This was certainly true as far back as 1286 for recognized countors or advocates were already performing their function when the Statute of Merton granted to every free man the right to be represented at the county, tything, hundred, wapentake and minor courts, by an attorney, whose right, however, to address the court seems to have been doubtful. Under Edward the First, the English Justinian, a definite class of English lawyers makes its appearance, and toward the close

of the thirteenth century we find statutory evidence of their respective functions in an ordinance passed by no lesser potentates than the Mayor and Aldermen of London, forbidding any countor to practice also as an attorney.

The separation thus begun between the two orders continues to this day and shows itself not only in function but in education, in dress, in legal status, in relationship to clients, in compensation, and not least of all, in eligibility for public office. Thus a barrister educated at one of the Inns of Court and admitted by its benchers to the Bar enjoys in his wig and gown a singular immunity from legal restraint. He is not an officer of the court, and the court neither admits him to practice nor has power to disbar him from his profession. He takes no oath of service, nor even of allegiance, for an alien may enjoy full professional status at the English Bar. No tax is levied upon his right to practice and no statute undertakes to regulate the compensation which he shall receive. On the other hand he cannot of his own motion and without previous instruction of a solicitor, commence, carry on or defend any action except when retained in open court by a criminal in the dock. He has no direct access to his client, and can neither sue the latter for his fees nor be sued in turn for any negligence in the performance of his duties. He must accept all briefs tendered to him in any of the courts in which he professes to practice when accompanied by the offer of a proper fee, yet can associate no partner with himself to divide his labors and responsibility. The functions which he is permitted to perform fall into three classes, i.e.—advising upon questions of law; drafting pleadings, conveyances and other documents; and acting as an advocate in the courts. So long as he is of the junior Bar he may receive pupils in his Chambers; but once made King's Counsel this and the labors of drafting are beneath his professional dignity. To him and to him alone are open all the judicial offices of the Kingdom as well as the great political posts of Lord Chancellor, Attorney General and Solicitor General.

How different the lot of the solicitor! The law, it is true, gives him a quasi monopoly of litigation by ordaining that no one person but a properly enrolled solicitor or a litigant in his

own person can "sue out any writ or process, or commence, carry on, solicit or defend any action, suit, or any other, proceeding in any court in England, or act as a solicitor in any cause, matter or suit, civil or criminal." But it accompanies this grant with a degree of statutory regulation and legal supervision to which perhaps no other profession is anywhere subject. From professional birth to legal death, the solicitor moves in the shadow of the law he serves. As an officer of the court, he must preface his admission by an oath of faithful service, and preserve his status from year to year by taking out an annual certificate on which a tax is paid. The signature of the Master of the Rolls is necessary for his admission but the Law Society which has the rolls in its keeping, may oust him from his calling for any act of professional misconduct or personal immorality. His fees are rigidly prescribed by none too generous statute, and unless he has sheltered himself behind the advice of some presumptively omniscient barrister, damages may be recovered from him for any negligence. He must be a British subject; and while, as the present Prime Minister has brilliantly demonstrated, he may attain the highest political office in the state, yet among legal offices only the most petty are open to him, and his voice may be heard only in the Chancery Chambers, the Bankruptcy Court of First Instance, County Courts and minor tribunals.

The choice between the one life and the other is one that cannot be made at convenience. It must be made at setting out, for there is no part of the road which the neophytes of the two professions travel together. For the intending barrister the initial step is enrollment at one of the Inns of Court. There is an old bit of doggerel for the guidance of the student which runs thus:

The Inner for the rich man,  
The Middle for the poor man,  
Lincoln's for the gentleman,  
And Gray's for the boor.

The necessity for rhyming some word with *poor* is the only reason apparent for this libel upon Gray's Inn. If a student

contemplates practice at the Chancery Bar, he will follow custom and attach himself to Lincoln's Inn, which no doubt traces its traditional preference for Chancery to the days when the courts of the Vice-Chancellor were located on the ground on which it now occupies. The Inner and the Middle Temple are more especially the Inns of the common law barrister. The Middle is by tradition the most catholic and democratic of all the Inns, while the Inner, larger at present in point of numbers, is recruited largely from the universities of Oxford and Cambridge, and it is supposed to entertain certain aristocratic leanings. Gray's Inn, the smallest of the four in point of numbers, makes no choice between the chancery and the common law bars. It possesses, however, a mellowness and charm of its own, and claims as its patron saints Queen Elizabeth, Lord Bacon and Lord Chief Justice Coke. When an incendiary bomb from a German airplane pierced its roof, it narrowly escaped the Crown of Martyrdom.

In government and custom there is little room for choice. All four of the Inns are voluntary incorporated societies wholly independent of the State and of each other, although they have chosen to act together in providing for the education and examination of students, and in defining the conditions for a call to the Bar. Their membership is divided between students, utter barristers and benchers. The Masters of the Bench are the governing body of the Inn, filling their ranks from time to time by coöptation from the barristers of more than ten years' standing. It is they who decide what patrons shall be admitted as students and what students shall be called to the Bar. When the barrister has donned his gown, it is they who supervise his professional conduct and who may for sufficient cause inflict upon him the ultimate penalty of dismissal from the profession. So long as he remains at the Bar, the barrister is subject to their supervision, for to retire from the membership of his Inn, unless indeed he becomes a member of another, is to forfeit his right to continue in practice. The Committee on Membership of the American Bar Association may well heave a sigh of envy at thought of such a system.

To discuss in detail the preparation necessary for admission to the Bar would be beyond the scope of this address. It is

enough to say that the student must address himself to a double entry; first, keeping terms, and second, passing examinations. The so-called dining terms of the Inns are four in each year lasting three weeks each. Twelve terms or three full years, in the absence of some special dispensation, must be kept by dining in hall. Three days in each term is sufficient for those who are students in some university, six days for those less fortunate; and in order no doubt that the student may improve in morals as well as in mind, no attendance is counted in his favor unless he be present at grace both before and after meals. The examinations which precede his call are prescribed on behalf of the four Inns by the Council on Legal Education upon which all the Inns are represented. A course of preparatory lectures is arranged by the Council, which the student is at liberty to attend or ignore; but whatever method of instruction he may choose, he must absorb sufficient information to pass the required examinations and must digest the quantity of food to which his dining terms constrain him.

The segregation of his intended calling is made clear by the fact that he must pledge himself upon his entrance (as well as upon his call) that he does not and will not directly or indirectly act in the capacity of

"solicitor, attorney at law, writer to the Signet, writer of the Scotch courts, proctor, notary public, clerk in chancery, parliamentary agent, agent in any court, original or appellate, or to any justice of the peace, registrar or high bailiff of any court, officially professed assistant, or deputy receiver and liquidator in any bankruptcy or winding up act, chartered, incorporated or professional accountant, land agent, surveyor, patent agent, consulting engineer, clerk to any judge, barrister conveyancer, special pleader of equity draftsman, clerk of the peace, to any court of justice."

and moreover that he is neither engaged in trade nor an undischarged bankrupt. Only when he has purged himself of all such lesser ambitions is he ready for the society of the Bar.

Except for the necessity of examination there is little that is similar in the making of a solicitor. Straight is the gait and narrow is the way which he must travel on his professional path. The steps are four in number; first, he must serve as a

clerk for years under a practicing solicitor; second, he must pass the required examinations, conceded to be even more exacting than those demanded from the barrister; third, he must be duly admitted and enrolled; last, he must take out a proper certificate to practice. By the articles of clerkship he binds himself to the service of a practicing solicitor, paying him an agreed premium for his tutelage. In one such contract I recall the amount to have been 250 pounds, the addition of a stamp duty of eighty pounds must be affixed under penalty. The articles when executed must be enrolled and registered at the offices of the Law Society. How rigidly they bind the novitiate appears from the fact that before he enters upon any duty or engages in any employment whatever other than that stipulated in the articles, whether in or out of office hours, he must obtain his principal's consent and the sanction of the judge. Even though the employment in no way interferes with his service under the articles, there is no relaxation of the rules, and the penalty is the loss of credit for so much of his five years' term as had elapsed before the offense. Thus where it appeared that an articulated clerk had acted without permission as clerk to a Parish Vestry, which seems rather an innocuous calling, it was ruled that he had contravened Section 10 of the Solicitors Act of 1860, and his service was vitiated accordingly.

The examinations are three in number, preliminary, intermediate and final. The preliminary examination which is a condition precedent to service under articles is intended to demonstrate the possession by the clerk of sufficient general education to qualify him for the study of law. It includes among other subjects English, arithmetic, algebra and elementary geometry, the geography of Europe and the history of England, Latin and any two languages out of the following six, namely: Latin Translation, Greek, French, German, Spanish, Italian. The intermediate examination can be taken by the candidate at any time after the expiration of twelve months' service under his articles, and consists of two parts elementary law in which the selected work has been for years Stephen's Commentaries on the laws of England, and second, trust accounts and bookkeeping. The final examination comes on the

eve of the expiration of the articles of service. The subjects are (1) principles of the law of real and personal property and the practice of conveyancing; (2) the principles of law and procedure in forms usually determined or demonstrated in the Chancery Division of the High Court of Justice; (3) the principles of law and procedure in matters usually determined or demonstrated in the King's Bench Division of the High Court of Justice and in the law and practice of bankruptcy; (4) the law and practice of probate, divorce and admiralty, ecclesiastic and criminal law, and practice and proceedings before the Justices of the Peace. Let us search our consciences and ask whether as practicing members of the American Bar we would be safe under analogous fire.

Unlike the barrister, the solicitor is not compelled to maintain a membership in the Law Society, which plays so large a part in his professional life. The law list for the year 1920 contains the names of some 16,000 enrolled solicitors in England and Wales; only 9000 of these are members of the Society but all of them alike are subject to its disciplinary power. Formerly the jurisdiction to strike solicitors from the roll for professional or personal misdemeanor was vested in the High Court of Justice, acting upon recommendation of the Society. By recent statute, however, the Society itself is given original jurisdiction to strike off an offending solicitor, whose only remedy thereafter is to appeal to the High Court of Justice. Since the Society acts in such matters only after a formal hearing, it is fair to assume that few appeals will be successful.

Thus the barrister and solicitor having entered their callings by different doors, pursue their separate lives to the end. They are not even welcome guests in each other's houses. No barrister can invite a solicitor to sit at table with him in the Inns of Court; and while the barrister may visit the sumptuous and comfortable quarters of the Law Society in Chancery Lane, where solicitors congregate, his frequent coming would lay him open to the suspicion that he was in search of business. One of the reproaches lodged against the notorious Jeffreys is that he came into full practice by getting acquaintance with the attorneys in city and "drinking desperately with them."

Apparently it is not his habits, but his associations which history condemns.

After this discussion of the ranks and orders into which the legal profession in England is divided, it may seem paradoxical to say that another point of contrast with the profession in America is the greater solidarity that prevails in England. In comparison with the close knit organizations sheltered by the Inns of Court and the Law Society, we in America seem so many scattered English grains of sand. It is difficult to make one familiar only with English atmosphere understand that in truth, notwithstanding this Association, there is no such body as the American Bar. There are instead scattered groups consisting of County, City and State Bars, with a Federal Bar here and there composed in part of some members, but united by no tie of common origin or discipline.

In England, on the other hand, especially among barristers, there is a sense of solidarity and community of interest to which we do not attain. The companionship of the Inns permeates their entire professional life, and in the days gone by there was added to this the fraternity of the old Circuit messes that made their semi-annual rounds to the assize towns. These pilgrimages Dean Swift has satirized in his jingling verses,

'Now the active young attorneys  
Briskly travel on their journeys,  
Looking big as any giants  
On the horses of their clients.

and so on and so on for a hundred lines or more.

Those who dwell with affectionate memory upon the golden age of the Circuit Bars lament the fact that the leaders of to-day no longer go regularly upon circuit and can be enticed away from the comforts and emoluments of London only by promise of a bumper fee. Perhaps it is rapid transit, perhaps other causes less obvious, but the fact remains that the concentration in London, both of the lawyers and of the legal business of the Kingdom, is a phenomenon quite without parallel on this side of the sea.

Of the ten thousand barristers carried on the Law List, but

363 are entered as of the Provincial Bar, and in 1920 among the 307 King's Counsel but one was registered outside the Capitol. Again, one-third in round numbers of the enrolled solicitors are credited to London, and one must remember that among the remaining two-thirds who are entered as country solicitors are included those who serve the great cities of the Midlands and the North, such as Sheffield, Birmingham, Manchester, Leeds and Liverpool. Which is cause and which effect might be hard to say, but it is evident either that litigation has drawn the lawyers or, what is less likely, the lawyers have drawn the litigation to a central focus. Setting to one side the petty cases tried in local courts of limited jurisdiction, an overwhelming majority of all the lawsuits of the Kingdom are tried and decided in the Law Courts on the Strand. For instance, in the last year for which figures are at hand, 2117 cases were set down for trial in the King's Bench Division of the High Court of Justice; only 609 of these were entered on Circuit, and of this number 384 are credited to the cities of Manchester, Birmingham, Liverpool and Leeds. Twelve of the assize towns had no case for trial; eight had but one; thirty-four others an average of but six cases. One commentator has suggested that provincial solicitors labor under the impression that London juries give larger damages than can be obtained in the Provinces, and for this reason rush to enter their cases on the Middlesex County list. In support of this, an instance is cited of a client who was once deprived of cost by Sir Henry Hawkins because his case should have been brought in Dorsetshire, but who consoled himself by the reflection that he had recovered £300, where a country jury would have given him but £50.

Having embarked upon statistics, let me digress to add a word on the subject of the relative amount of litigation in England and America. One must remember, in comparing figures, that the population of England and Wales is roughly one-third that of the United States, and this disproportion will naturally reflect itself in statistical returns. But the difference in population is quite insufficient to account for the disparity which in fact exists. Startling as it may seem, the major litigation of England and Wales is relatively little more than the litigation

in our Federal Courts alone; and the vast tide of controversy that flows through our State Tribunals may be credited to us as surplus belligerency. I have no complete statistics with which to prove this assertion, nor would I tire your patience with them if they were at hand, but a few comparisons will be suggestive. During the five years from 1914 to 1918 inclusive, the average number of new cases docketed with the Supreme Court of the United States per term was 576.6; in the House of Lords for the same period it was 81 for the United Kingdom and 51.8 for England and Wales. In the year 1918 there were docketed in the Circuit Court of Appeals of the United States 1320 new cases. For the same period in the English Court of Appeals but 488, which was, however, 83 cases less than the five-year average. In the same year the District Courts of the United States docketed 72,237 cases, including 20,385 bankruptcy proceedings; while in the High Court of Justice, including its Chancery, King's Bench, Probate and Admiralty Divisions, 36,171 proceedings were commenced and 1276 bankruptcy petitions were filed. It is true that in this same year the County Courts present an imposing total of 309,096 complaints entered; but 308,650 of these were for sums not exceeding £20 and but 209 for sums over £100.

Figures are often misleading and generalizations from incomplete statistics are always dangerous; and yet I believe it may be truly said that the average Englishmen, with all of his proverbial insistence upon his rights, calls less often upon his courts for relief than does his American cousin. Who shall come forward with an explanation of this fact, if fact it be? It is a survival of days long gone when justice was not only costly but tardy and uncertain; is it because there exists in England a class of lawyers whose business lies wholly outside the Courts and in whose hands many controversies are settled without judicial aid; or is there a reason deeper still in the age-long habit of this island people to respect the law they have made and live their daily lives within its well-marked circle?

Now, in addition to its organization and its unity, I venture, all novelists and story-writers to the contrary notwithstanding, to ascribe to the legal profession in England, as another attribute, a marked spirit of progress. To justify this statement by

review of the sweeping changes which have taken place within the last century, notably in the Judicature Acts of 1873, 1874 and 1875, would be easy; but much has happened since the century turned to show that the English lawyer has not lagged behind the times in his liberalizing tendencies. In his own house he has set up the General Council of the Bar to rule on matters of professional etiquette; and has installed a new and comprehensive system for the education of articled clerks as solicitors, both in the Provinces and in London. The disciplinary powers of the Law Society have been reaffirmed and enlarged. Representation has been accorded to the practicing members of the profession on the committee charged with making rules and orders in all branches of the High Court, which is now composed of eight judges of the High Court, two members of the General Council of the Bar, one member of the Council of the Law Society and one other solicitor, presumably a provincial. Justice has been brought nearer to the masses by the enlargement of the common law jurisdiction of the County Courts, and a movement is on foot to distribute the trial of cases, especially in matters of divorce more generally throughout the Kingdom.

In the domain of criminal law and procedure, the spirit of advancement has made itself notably felt. One would hardly expect the learned compiler of Smith's Leading Cases to stand forth as a poet, and yet seventy years ago he described the ancient lot of the prisoner in the following lines:

No tribe, with rusty camlet gowns  
And shabby horsehair wigs,  
Harangued the upper gallery  
In favor of the prigs.

No troop of venal witnesses,  
Insured to perjury,  
Were ever brought by knaves who sought  
To prove an *alibi*.

For sundry wise precautions  
The sages of the law  
Discreetly framed whereby they aimed  
To keep the rogues in awe.

For lest some sturdy criminal  
False witnesses should bring—  
His witnesses were not allowed  
To swear to anything.

And lest his wily advocate  
The Court should overreach,  
The advocate was not allowed  
The privilege of speech.

Yet such was the humanity  
And wisdom of the law,  
That if in the indictment  
There appeared to be a flaw,

The Court assigned him councilors  
To argue on the doubt,  
Provided he himself had first  
Contrived to point it out.

Yet lest their mildness should, perchance,  
Be craftily abused,  
To show him the indictment they  
Most sturdily refused.

But still, that he might understand  
The nature of the charge,  
The same was in the Latin tongue  
Read out to him at large.

Doubtless most of this had passed before 1898, but it was not until that year that the accused became a competent witness on his own behalf in an English court. In 1907 the Court of Criminal Appeal was erected with jurisdiction to review either conviction or sentence on matters of fact, or mixed law and fact, or upon any other ground; to quash the conviction or modify the sentence either by reduction or enlargement of its terms but, singularly, as it seems to us, without power to grant a new trial. Latest of the innovations in this field is the Indictment Act of 1915 under which the language of all indictments has been reduced to the smallest compass. Years ago when the jail fever raged in Newgate prison, the judges of

the criminal courts buried their noses in fancied protection in bunches of aromatic herbs. To this day when the summer term at the Central Criminal Court, the Old Bailey, is opened, the Lord Mayor in his robes and chain, attended by his sheriffs and the bearers of his sword and mace, the attending Alderman and the judge enter the court room bearing each a nosegay, and the judicial dais is strewn with the aromatic herbs of former days. In such surroundings one confidently waits to hear all the rolling phrases of a common law indictment, and feels it a distinct anachronism when the clerk reads out a charge containing nothing more than this:

The King *vs.* Albert John Brown.

Albert Brown is charged with the following offense:

Statement of offense: murder.

Particulars of offense: Albert John Brown on the 19th day of October, 1920, in the County of Essex, murdered Caroline Smith.

Latest, although not least, of the portents of change are those due to the Act for the Removal of Sex Disqualification, passed in 1919, which was ushered in, not without much wagging of heads, the woman barrister, the woman solicitor and the woman jury member. When mixed juries made their first appearance there was much discussion among judges and lawyers of the proper method of address, since the time honored, "Gentlemen of the Jury" was manifestly obsolete. The difficulty was finally resolved by the adoption of the somewhat obvious phrase "Members of the Jury."

And yet, even in courts so modern and so new as the Court of Criminal Appeal, antiquity still rears its hoary head and will not be denied. I recall one case, in which our distinguished guest was a participant, where the Court was called upon to determine the jurisdiction in a charge of perjury of the Justices of the Peace for the Liberty of Peterborough, and which involved a discussion of English history and of royal charters running back to ecclesiastical grants from Edgar the Saxon and Wolfranc the Elder. What an example such a case affords of the old and new which is at once the charm and strength of England and of English law? Is not the crown of the political

genius of the Anglo-Saxon his ability to make great changes, both in law and government, without resort to violence? His movement may be slow, at times so deliberate as to be imperceptible, but none the less he moves. The radical of to-day is the conservative of to-morrow; the rearguard camps at night by the smoking watch fires from which the vanguard departed in the morning; but without breaking ranks or losing touch the whole column moves steadily onward to a broadening figure.

In opening my remarks I promised not to burden you by any reference to the problems of the hour. May I be released from that engagement for a closing word? When all comparisons have been made, and all differences recounted, the fact remains that the members of the legal profession in England are in very truth our brethren overseas. The common law by which we live has its roots in English soil. The judges who interpret it on both sides of the water look to their distant colleagues for counsel and assistance, and the principles of liberty which it embodies are the rod and staff by which our peoples walk. Trained in the same school, professing the same great ideals, sharers of like immunities and privileges, there rests upon the legal profession in England and America a duty which is joint and not several, compact and not divisible. The nations whom they serve stand to-day supreme in present strength and in potential energy. Upon them Destiny has laid accordingly the largest responsibility for the immediate future of the world. Shall not the lawyers, who lead as well as serve them, guide them in the ways of mutual confidence and joint endeavor in the service of mankind?

•

# RALPH WALDO EMERSON

## THE AMERICAN SCHOLAR

Address of Ralph Waldo Emerson, essayist and poet (born in Boston, May 25, 1803; died in Concord, Mass., April 27, 1882), delivered before the Phi Beta Kappa Society at Cambridge, August 31, 1837. This address must be ranked among the great American orations. When delivered, it made a powerful impression, and its influence on American thought has continued ever since. Two after-dinner speeches by Emerson are printed in Volume II.

MR. PRESIDENT AND GENTLEMEN:—I greet you on the commencement of our literary year. Our anniversary is one of hope, and perhaps, not enough of labor. We do not meet for games of strength or skill, for the recitation of histories, tragedies, and odes, like the ancient Greeks; for parliaments of love and poesy, like the Troubadours; nor for the advancement of science, like our contemporaries in the British and European capitals. Thus far, our holiday has been simply a friendly sign of the survival of the love of letters amongst a people too busy to give to letters any more. As such it is precious as the sign of an indestructible instinct. Perhaps the time is already come when it ought to be, and will be, something else; when the sluggish intellect of this continent will look from under its iron lids and fill the postponed expectation of the world with something better than the exertions of mechanical skill. Our day of dependence, our long apprenticeship to the learning of other lands, draws to a close. The millions that around us are rushing into life cannot always be fed on the sere remains of foreign harvests. Events, actions arise, that must be sung, that will sing themselves. Who can doubt that poetry will revive and lead in a new age, as the star in the constellation Harp, which now flames in our zenith, astronomers

announce, shall one day be the pole-star for a thousand years?

In this hope I accept the topic which not only usage but the nature of our association seem to prescribe to this day—the American Scholar. Year by year we come up hither to read one more chapter of his biography. Let us inquire what light new days and events have thrown on his character and his hopes.

It is one of those fables which out of an unknown antiquity convey an unlooked-for wisdom, that the gods, in the beginning, divided Man into men, that he might be more helpful to himself; just as the hand was divided into fingers, the better to answer its end. The old fable covers a doctrine ever new and sublime; that there is One Man—present to all particular men only partially, or through one faculty; and that you must take the whole society to find the whole man. Man is not a farmer, or a professor, or an engineer, but he is all. Man is priest, and scholar, and statesman, and producer, and soldier. In the divided or social state these functions are parceled out to individuals, each of whom aims to do his stint of the joint work, whilst each other performs his. The fable implies that the individual, to possess himself, must sometimes return from his own labor to embrace all the other laborers. But, unfortunately, this original unit, this fountain of power, has been so distributed to multitudes, has been so minutely subdivided and peddled out, that it is spilled into drops, and cannot be gathered. The state of society is one in which the members have suffered amputation from the trunk, and strut about so many walking monsters—a good finger, a neck, a stomach, an elbow, but never a man.

Man is thus metamorphosed into a thing, into many things. The planter, who is Man sent out into the field to gather food, is seldom cheered by any idea of the true dignity of his ministry. He sees his bushel and his cart, and nothing beyond, and sinks into the farmer, instead of Man on the farm. The tradesman scarcely ever gives an ideal worth to his work, but is ridden by the routine of his craft, and the soul is subject to dollars. The priest becomes a form; the attorney a statute-book; the mechanic a machine; the sailor a rope of the ship.

In this distribution of functions the scholar is the delegated

intellect. In the right state he is Man Thinking. In the degenerate state, when the victim of society, he tends to become a mere thinker, or still worse, the parrot of other men's thinking.

In this view of him, as Man Thinking, the theory of his office is contained. Him Nature solicits with all her placid, all her monitory pictures; him the past instructs; him the future invites. Is not indeed every man a student, and do not all things exist for the student's behoof? And, finally, is not the true scholar the only true master? But the old oracle said, "All things have two handles: beware of the wrong one." In life, too often, the scholar errs with mankind and forfeits his privilege. Let us see him in his school, and consider him in reference to the main influences he receives.

The first in time and the first in importance of the influences upon the mind is that of nature. Every day, the sun; and after sunset, Night and her stars. Ever the winds blow; ever the grass grows. Every day, men and women, conversing, beholding and beholden. The scholar is he of all men whom this spectacle most engages. He must settle its value in his mind. What is nature to him? There is never a beginning, there is never an end, to the inexplicable continuity of this web of God, but always circular power returning into itself. Therein it resembles his own spirit, whose beginning, whose ending, he never can find—so entire, so boundless. Far too as her splendors shine, system on system shooting like rays, upward downward, without center, without circumference—in the mass and in the particle, Nature hastens to render account of herself to the mind. Classification begins. To the young mind every thing is individual, stands by itself. By and by, it finds how to join two things and see in them one nature; then three, then three thousand; and so, tyrannized over by its own unifying instinct, it goes on tying things together, diminishing anomalies, discovering roots running under ground whereby contrary and remote things cohere and flower out from one stem. It presently learns that since the dawn of history there has been a constant accumulation and classifying of facts. But what is classification but the perceiving that these objects are not chaotic, and are not foreign, but have a law which is also a law of the human mind? The astronomer

discovers that geometry, a pure abstraction of the human proportions and intelligible method throughout matter; and mind, is the measure of planetary motion. The chemist finds science is nothing but the finding of analogy, identity, in the most remote parts. The ambitious soul sits down before each refractory fact; one after another reduces all strange constitutions, all new powers to their class and their law, and goes on forever to animate the last fiber of organization, the outskirts of nature, by insight.

Thus to him, to this schoolboy under the bending dome of day, is suggested that he and it proceed from one root; one is leaf and one is flower; relation, sympathy, stirring in every vein. And what is that root? Is it not that the soul of his soul? A thought too bold; a dream too wild. Yet when this spiritual light shall have revealed the law of more earthly natures—when he has learned to worship the soul, and to see that the natural philosophy that now is, is only the first gropings of its gigantic hand, he shall look forward to an ever-expanding knowledge as to a becoming creator. He shall see that nature is the opposite of the soul, answering to it part for part. One is zeal and one is print. Its beauty is the beauty of his own mind. Its laws are the laws of his own mind. Nature then becomes to him the measure of his attainments. So much of nature as he is ignorant of, so much of his own mind does he not yet possess. And, in fine, the ancient precept, "Know thyself," and the modern precept, "Study nature," become at last one maxim.

The next great influence into the spirit of the scholar is the mind of the Past—in whatever form, whether of literature, of art, of institutions, that mind is inscribed. Books are the best type of the influence of the past, and perhaps we shall get at the truth—learn the amount of this influence more conveniently—by considering their value alone.

The theory of books is noble. The scholar of the first age received into him the world around; brooded thereon; gave it the new arrangement of his own mind, and uttered it again. It came into him life; it went out from him truth. It came to him short-lived actions; it went out from him immortal thoughts. It came to him business; it went from him poetry.

It was dead fact; now, it is quick thought. It can stand, and it can go. It now endures, it now flies, it now inspires. Precisely in proportion to the depth of the mind from which it issues, so high does it soar, so long does it sing. Or, I might say, it depends on how far the process had gone of transmuting life into truth. In proportion to the completeness of the distillation, so will the purity and imperishableness of the product be. But none is quite perfect. As no air-pump can by any means make a perfect vacuum, so neither can any artist entirely exclude the conventional, the local, the perishable from his book, or write a book of pure thought, that shall be as efficient, in all respects, to a remote posterity, as to contemporaries, or rather to the second age. Each age, it is found, must write its own books; or rather, each generation for the next succeeding. The books of an older period will not fit this.

Yet hence arises a grave mischief. The sacredness which attaches to the act of creation, the act of thought, is transferred to the record. The poet chanting was felt to be a divine man; henceforth the chant is divine also. The writer was a just and wise spirit: henceforward it is settled the book is perfect: as love of the hero corrupts into worship of his statue. Instantly the book becomes noxious: the guide is a tyrant. The sluggish and perverted mind of the multitude, slow to open to the incursions of Reason, having once so opened, having once received this book, stands upon it, and makes an outcry if it is disparaged. Colleges are built on it. Books are written on it by thinkers, not by Man Thinking; by men of talent, that is, who start wrong, who set out from accepted dogmas, not from their own sight of principles. Meek young men grow up in libraries, believing it their duty to accept the views which Cicero, which Locke, which Bacon, have given; forgetful that Cicero, Locke, and Bacon, were only young men in libraries when they wrote these books.

Hence, instead of Man Thinking, we have the book-worm. Hence the book-learned class, value books, as such; not as related to nature and the human constitution, but as making a sort of Third Estate with the world and the soul. Hence the restorers of readings, the emendators, the bibliomaniacs of all degrees.

Books are the best of things, well used; abused, among the worst. What is the right use? What is the one end which all means go to effect? They are for nothing but to inspire. I had better never to see a book than to be warped by its attraction clean out of my own orbit, and made a satellite instead of a system. The one thing in the world, of value, is the active soul. This every man is entitled to; this every man contains within him, although in almost all men obstructed, and as yet unborn. The soul active sees absolute truth and utters truth, or creates. In this action it is genius; not the privilege of here and there a favorite, but the sound estate of every man. In its essence it is progressive. The book, the college, the school of art, the institution of any kind, stop with some past utterance of genius. This is good, say they—let us hold by this. They pin me down. They look backward and not forward. But genius looks forward: the eyes of man are set in his forehead, not in his hindhead: man hopes: genius creates. Whatever talents be, if the man create not, the pure efflux of the Deity is not his; cinders and smoke there may be, but not yet flame. There are creative manners, there are creative actions, and creative words; manners, actions, words, that is, indicative of no custom or authority, but springing spontaneous from the mind's own sense of good and fair.

On the other part, instead of being its own seer, let it receive from another mind its truth, though it were in torrents of light, without periods of solitude, inquest, and self-recovery, and a fatal disservice is done. Genius is always sufficiently the enemy of genius by over-influence. The literature of every nation bears me witness. The English dramatic poets have Shakespearized now for two hundred years.

Undoubtedly there is a right way of reading, so it be sternly subordinated. Man Thinking must not be subdued by his instruments. Books are for the scholar's idle times. When he can read God directly, the hour is too precious to be wasted in other men's transcripts of their readings. But when the intervals of darkness come, as come they must—when the sun is hid and the stars withdraw their shining—we repair to the lamps which were kindled by their ray, to guide our steps to

the East again, where the dawn is. We hear, that we may speak. The Arabian proverb says, "A fig-tree, looking on a fig-tree, becometh fruitful."

It is remarkable, the character of the pleasure we derive from the best books. They impress us with the conviction that one nature wrote and the same reads. We read the verses of one of the great English poets, of Chaucer, of Marvell, of Dryden, with the most modern joy—with a pleasure, I mean, which is in great part caused by the abstraction of all time from their verses. There is some awe mixed with the joy of our surprise, when this poet, who lived in some past world, two or three hundred years ago, says that which lies close to my own soul, that which I also had well-nigh thought and said. But for the evidence thence afforded to the philosophical doctrine of the identity of all minds, we should suppose some pre-established harmony, some foresight of souls that were to be, and some preparation of stores for their future wants, like the fact observed in insects, who lay up food before death for the young grub they shall never see.

I would not be hurried by any love of system, by any exaggeration of instincts, to underrate the book. We all know, that as the human body can be nourished on any food, though it were boiled grass and the broth of shoes, so the human mind can be fed by any knowledge. And great and heroic men have existed who had almost no other information than by the printed page. I only would say that it needs a strong head to bear that diet. One must be an inventor to read well. As the proverb says, "He that would bring home the wealth of the Indies, must carry out the wealth of the Indies." There is then creative reading as well as creative writing. When the mind is braced by labor and invention the page of whatever book we read becomes luminous with manifold allusion. Every sentence is doubly significant, and the sense of our author is as broad as the world. We then see, what is always true, that as the seer's hour of vision is short and rare among heavy days and months, so is its record, perchance, the least part of his volume. The discerning will read, in his Plato or Shakespeare, only that least part—only the authentic utterances of the

oracle—all the rest he rejects, were it never so many times Plato's and Shakespeare's.

Of course there is a portion of reading quite indispensable to a wise man. History and exact science he must learn by laborious reading. Colleges, in like manner, have their indispensable office—to teach elements. But they can only highly serve us when they aim not to drill, but to create; when they gather from far every ray of various genius to their hospitable halls, and by the concentrated fires, set the hearts of their youth on flame. Thought and knowledge are natures in which apparatus and pretension avail nothing. Gowns and pecuniary foundations, though of towns of gold, can never countervail the least sentence or syllable of wit. Forget this, and our American colleges will recede in their public importance, whilst they grow richer every year.

There goes in the world a notion that the scholar should be a recluse, a valetudinarian—as unfit for any handiwork or public labor as a penknife for an ax. The so-called “practical men” sneer at speculative men, as if, because they speculate or see, they could do nothing. I have heard it said that the clergy—who are always, more universally than any other class, the scholars of their day—are addressed as women; that the rough, spontaneous conversation of men they do not hear, but only a mincing and diluted speech. They are often virtually disfranchised; and indeed they are advocates for their celibacy. As far as this is true of the studious classes, it is not just and wise. Action is with the scholar subordinate, but it is essential. Without it he is not yet man. Without it thought can never ripen into truth. Whilst the world hangs before the eye as a cloud of beauty, we cannot even see its beauty. Inaction is cowardice, but there can be no scholar without the heroic mind. The preamble of thought, the transition through which it passes from the unconscious to the conscious, is action. Only so much do I know, as I have lived. Instantly we know whose words are loaded with life, and whose not.

The world—this shadow of the soul, or other me, lies wide around. Its attractions are the keys which unlock my thoughts and make me acquainted with myself. I run eagerly into this resounding tumult. I grasp the hands of those next me, and

take my place in the ring to suffer and to work, taught by an instinct that so shall the dumb abyss be vocal with speech. I pierce its order; I dissipate its fear; I dispose of it within the circuit of my expanding life. So much only of life as I know by experience, so much of the wilderness have I vanquished and planted, or so far have I extended my being, my dominion. I do not see how any man can afford, for the sake of his nerves and his nap, to spare any action in which he can partake. It is pearls and rubies to his discourse. Drudgery, calamity, exasperation, want, are instructors in eloquence and wisdom. The true scholar grudges every opportunity of action passed by, as a loss of power. It is the raw material out of which the intellect molds her splendid products. A strange process too, this by which experience is converted into thought, as a mulberry leaf is converted into satin. The manufacture goes forward at all hours.

The actions and events of our childhood and youth are now matters of calmest observation. They lie like fair pictures in the air. Not so with our recent actions—with the business which we now have in hand. On this we are quite unable to speculate. Our affections as yet circulate through it. We no more feel or know it than we feel the feet, or the hand, or the brain of our body. The new deed is yet a part of life—remains for a time immersed in our unconscious life. In some contemplative hour it detaches itself from the life like a ripe fruit, to become a thought of the mind. Instantly it is raised, transfigured; the corruptible has put on incorruption. Henceforth it is an object of beauty, however base its origin and neighborhood. Observe too the impossibility of antedating this act. In its grub state, it cannot fly, it cannot shine, it is a dull grub. But suddenly, without observation, the selfsame thing unfurls beautiful wings, and is an angel of wisdom. So is there no fact, no event, in our private history, which shall not, sooner or later, lose its adhesive, inert form, and astonish us by soaring from our body into the empyrean. Cradle and infancy, school and playground, the fear of boys, and dogs, and ferules, the love of little maids and berries, and many another fact that once filled the whole sky, are gone already; friend and relative,

profession and party, town and country, nation and world, must also soar and sing.

Of course, he who has put forth his total strength in fit actions has the richest return of wisdom. I will not shut myself out of this globe of action and transplant an oak into a flower-pot, there to hunger and pine; nor trust the revenue of some single faculty, and exhaust one vein of thought, much like those Savoyards, who, getting their livelihood by carving shepherds, shepherdesses, and smoking Dutchmen, for all Europe, went out one day to the mountain to find stock, and discovered that they had whittled up the last of their pine-trees. Authors we have, in numbers, who have written out their vein, and who, moved by a commendable prudence, sail for Greece or Palestine, follow the trapper into the prairie, or ramble round Algiers, to replenish their merchantable stock.

If it were only for a vocabulary, the scholar would be covetous of action. Life is our dictionary. Years are well spent in country labors; in town; in the insight into trades and manufactures; in frank intercourse with many men and women; in science; in art; to the one end of mastering in all their facts a language by which to illustrate and embody our perceptions. I learn immediately from any speaker how much he has already lived, through the poverty or the splendor of his speech. Life lies behind us as the quarry from whence we get tiles and copestones for the masonry of to-day. This is the way to learn grammar. Colleges and books only copy the language which the field and the work-yard made.

But the final value of action, like that of books, and better than books, is that it is a resource. That great principle of Undulation in nature, that shows itself in the inspiring and expiring of the breath; in desire and satiety; in the ebb and flow of the sea; in a day and night; in heat and cold; and, as yet more deeply ingrained in every atom and every fluid, is known to us under the name of Polarity—these “fits of easy transmission and reflection,” as Newton called them—are the law of nature because they are the law of spirit.

The mind now thinks, now acts, and each fit reproduces the other. When the artist has exhausted his materials, when the fancy no longer paints, when thoughts are no longer appre-

hended and books are a weariness—he has always the resource to live. Character is higher than intellect. Thinking is the function. Living is the functionary. The stream retreats to its source. A great soul will be strong to live, as well as strong to think. Does he lack organ or medium to impart his truth? He can still fall back on this elemental force of living them. This is a total act. Thinking is a partial act. Let the grandeur of justice shine in his affairs. Let the beauty of affection cheer his lowly roof. Those “far from fame,” who dwell and act with him, will feel the force of his constitution in the doings and passages of the day better than it can be measured by any public and designed display. Time shall teach him that the scholar loses no hour which the man lives. Herein he unfolds the sacred germ of his instinct, screened from influence. What is lost in seemliness is gained in strength. Not out of those on whom systems of education have exhausted their culture, comes the helpful giant to destroy the old or to build the new, but out of unhandelled savage nature; out of terrible Druids and Berserkers come at last Alfred and Shakespeare.

I hear therefore with joy whatever is beginning to be said of the dignity and necessity of labor to every citizen. There is virtue yet in the hoe and the spade, for learned as well as for unlearned hands. And labor is everywhere welcome; always we are invited to work; only be this limitation observed, that a man shall not for the sake of wider activity sacrifice any opinion to the popular judgments and modes of action.

I have now spoken of the education of the scholar by nature, by books, and by action. It remains to say somewhat of his duties.

They are such as become Man Thinking. They may all be comprised in self-trust. The office of the scholar is to cheer, to raise, and to guide men by showing them facts amidst appearances. He plies the slow, unhonored, and unpaid task of observation. Flamsteed and Herschel, in their glazed observatories, may catalogue the stars with the praise of all men, and the results being splendid and useful, honor is sure. But he, in his private observatory, cataloguing obscure and nebulous stars of the human mind, which as yet no man has thought of as such—watching days and months sometimes for a few facts;

correcting still his old records—must relinquish display and immediate fame. In the long period of his preparation he must betray often an ignorance and shiftlessness in popular arts incurring the disdain of the able who shoulder him aside. Long he must stammer in his speech; often forego the living for the dead. Worse yet, he must accept, how often! poverty and solitude. For the ease and pleasure of treading the old road, accepting the fashions, the education, the religion of society, he takes the cross of making his own, and, of course, the self-accusation, the faint heart, the frequent uncertainty and loss of time, which are the nettles and tangling vines in the way of the self-relying and self-directed; and the state of virtual hostility in which he seems to stand to society, and especially to educated society. For all this loss and scorn, what offset? He is to find consolation in exercising the highest functions of human nature. He is one who raises himself from private considerations and breathes and lives on public and illustrious thoughts. He is the world's eye. He is the world's heart. He is to resist the vulgar prosperity that retrogrades even to barbarism, by preserving and communicating heroic sentiments, noble biographies, melodious verse, and the conclusions of history. Whatsoever oracles the human heart, in all emergencies, in all solemn hours, has uttered as its commentary on the world of actions—these he shall receive and impart. And whatsoever new verdict Reason from her inviolable seat pronounces on the passing men and events of to-day—this he shall hear and promulgate.

These being his functions, it becomes him to feel all confidence in himself, and to defer never to the popular cry. He and he only knows the world. The world of any moment is the nearest appearance. Some great decorum, some fetish of a government, some ephemeral trade, or war, or man, is cried up by half mankind and cried down by the other half; as if all depended on this particular up or down. The odds are that the whole question is not worth the poorest thought which the scholar has lost, in listening to the controversy. Let him not quit his belief that a popgun is a popgun, though the ancient and honorable of the earth affirm it to be the crack of doom. In silence, in steadiness, in severe abstraction, let him hold by

himself; add observation to observation, patient of neglect, patient of reproach, and bide his own time—happy enough if he can satisfy himself alone that this day he has seen something truly. Success treads on every right step. For the instinct is sure, that prompts him to tell his brother what he thinks. He then learns that in going down into the secrets of his own mind he has descended into the secrets of all minds. He learns that he who has mastered any law in his private thoughts, is master to that extent of all men whose language he speaks, and of all into whose language his own can be translated. The poet, in utter solitude remembering his spontaneous thoughts and recording them, is found to have recorded that which men in crowded cities find true for them also. The orator distrusts at first the fitness of his frank confessions, his want of knowledge of the persons he addresses, until he finds that he is the complement of his hearers—that they drink his words because he fulfills for them their own nature; the deeper he drives into his privatest secretest presentiment, to his wonder he finds this is the most acceptable, most public, and universally true. The people delight in it; the better part of every man feels. This is my music; this is myself.

In self-trust all the virtues are comprehended. Free should the scholar be—free and brave. Free even to the definition of freedom, “without any hindrance that does not arise out of his own constitution.” Brave; for fear a thing which a scholar by his very function puts behind him. Fear always springs from ignorance. It is a shame to him if his tranquillity, amid dangerous times, arise from the presumption that like children and women his is a protected class; or if he seek a temporary peace by the diversion of his thoughts from politics or vexed questions, hiding his head like an ostrich in the flowering bushes, peeping into microscopes, and turning rhymes, as a boy whistles to keep his courage up. So is the danger a danger still; so is the fear worse. Manlike let him turn and face it. Let him look into its eye and search its nature, inspect its origin—see the whelping of the lion—which lies no great way back; he will then find in himself a perfect comprehension of its nature and extent; he will have made his hands meet on the other side, and can henceforth defy it and pass on superior.

The world is his who can see through its pretension. What deafness, what stone-blind custom, what overgrown error you behold is there only by sufferance—by your sufferance. See it to be a lie, and you have already dealt it its mortal blow.

Yes, we are the cowed—we the trustless. It is a mischievous notion that we are come late into nature; that the world was finished a long time ago. As the world was plastic and fluid in the hands of God, so it is ever to so much of his attributes as we bring to it. To ignorance and sin, it is flint. They adapt themselves to it as they may; but in proportion as a man has anything in him divine, the firmament flows before him and takes his signet and form. Not he is great who can alter matter, but he who can alter my state of mind. They are the kings of the world who give the color of their present thought to all nature and all art, and persuade men by the cheerful serenity of their carrying the matter, that this thing which they do is the apple which the ages have desired to pluck, now at last ripe, and inviting nations to the harvest. The great man makes the great thing. Wherever Macdonald sits, there is the head of the table. Linnæus makes botany the most alluring of studies, and wins it from the farmer and the herb-woman; Davy, chemistry; and Cuvier, fossils. The day is always his who works in it with serenity and great aims. The unstable estimates of men crowd to him whose mind is filled with a truth, as the heaped waves of the Atlantic follow the moon.

For this self-trust, the reason is deeper than can be fathomed,—darker than can be enlightened. I might not carry with me the feeling of my audience in stating my own belief. But I have already shown the ground of my hope in advertising to the doctrine that man is one. I believe man has been wronged; he has wronged himself. He has almost lost the light that can lead him back to his prerogatives. Men are become of no account. Men in history, men in the world of to-day, are bugs, are spawn, and are called "the mass" and "the herd." In a century, in a millennium, one or two men; that is to say, one or two approximations to the right state of every man. All the rest behold in the hero or the poet their own green and crude being—ripened; yes, and are content to be less, so that

may attain to its full stature. What a testimony, full of grandeur, full of pity, is borne to the demands of his own nature, by the poor clansman, the poor partisan, who rejoices in the glory of his chief. The poor and the low find some amends to their immense moral capacity, for their acquiescence in political and social inferiority. They are content to be brushed like flies from the path of a great person, so that justice shall be done by him to that common nature which it is the dearest desire of all to see enlarged and glorified. They sun themselves in the great man's light, and feel it to be their own element. They cast the dignity of man from their downtrodden selves upon the shoulders of a hero, and will perish to add one drop of blood to make that great heart beat, those giant sinews combat and conquer. He lives for us, and we live in him.

Men such as they are, very naturally seek money or power; and power because it is as good as money—the “spoils,” so-called, “of office.” And why not? for they aspire to the highest, and this, in the sleep-walking, they dream is highest. Wake them and they shall quit the false good and leap to the true, and leave governments to clerks and desks. This Revolution is to be wrought by the gradual domestication of the idea of Culture. The main enterprise of the world for splendor, or extent, is the upbuilding of a man. Here are the materials strewn along the ground. The private life of one man shall be a more illustrious monarchy, more formidable to its enemy, more sweet and serene in its influence to its friend, than any kingdom in history. For a man, rightly viewed, comprehendeth the particular natures of all men. Each philosopher, each bard, each actor has only done for me, as by a delegate, what one day I can do for myself. The books which once we valued more than the apple of the eye, we have quite exhausted. What is that but saying that we have come up with the point of view which the universal mind took through the eyes of one scribe; we have been that man, and have passed on. First, one, then another, we drain all cisterns, and waxing greater by all these supplies, we crave a better and more abundant food. The man has never lived that can feed us ever. The human mind cannot be enshrined in a person who shall set a barrier on any side to this unbounded, unboundable empire. It is one

central fire, which, flaming now out of the lips of Etna, lightens the capes of Sicily, and now out of the throat of Vesuvius, illuminates the towers and vineyards of Naples. It is one light which beams out of a thousand stars. It is one soul which animates all men.

But I have dwelt perhaps tediously upon this abstraction of the Scholar. I ought not to delay longer to add what I have to say of nearer references to the time and to the country.

Historically, there is thought to be a difference in the ideas which predominate over successive epochs, and there are data for marking the genius of the Classic, of the Romantic, and now of the Reflective or Philosophical age. With the views I have intimated of the oneness or the identity of the mind through all individuals, I do not much dwell on these differences. In fact, I believe each individual passes through all three. The boy is a Greek; the youth, romantic; the adult, reflective. I deny not however that a revolution in the leading idea may be distinctly enough traced.

Our age is bewailed as the age of Introversion. Must that needs be evil? We, it seems, are critical; we are embarrassed with second thoughts; we cannot enjoy anything for hankering to know whereof the pleasure consists; we are limed with eyes; we see with our feet; the time is infected with Hamlet's unhappiness—

Sicklied o'er with the pale cast of thought.

Is it so bad then? Sight is the last thing to be pitied. Would we be blind? Do we fear lest we should outsee nature and God, and drink truth dry? I look upon the discontent of the literary class as a mere announcement of the fact that they find themselves not in the state of mind of their fathers, and regret the coming state as untried; as a boy dreads the water before he has learned that he can swim. If there is any period one would desire to be born in, is it not the age of Revolution; when the old and the new stand side by side and admit of being compared; when the energies of all men are searched by fear and by hope; when the historic glories of the old can be compensated by the rich possibilities of the new era? This

time, like all times, is a very good one, if we but know what to do with it.

I read with some joy of the auspicious signs of the coming days, as they glimmer already through poetry and art, through philosophy and science, through church and state.

One of these signs is the fact that the same movement which affected the elevation of what was called the lowest class in the state, assumed in literature a very marked and as benign an aspect. Instead of the sublime and beautiful, the near, the low, the common, was explored and poetized. That which had been negligently trodden under foot by those who were harnessing and provisioning themselves for long journeys into far countries, is suddenly found to be richer than all foreign parts. The literature of the poor, the feelings of the child, the philosophy of the street, the meaning of household life, are the topics of the time. It is a great stride. It is a sign—is it not? of new vigor when the extremities are made active, when currents of warm life run into the hands and the feet. I ask not for the great, the remote, the romantic; what is doing in Italy or Arabia; what is Greek art, or Provençal minstrelsy; I embrace the common, I explore and sit at the feet of the familiar, the low. Give me insight into to-day, and you may have the antique and future worlds. What would we really know the meaning of? The meal in the firkin; the milk in the pan; the ballad in the street; the news of the boat; the glance of the eye; the form and the gait of the body;—show me the ultimate reason of these matters; show me the sublime presence of the highest spiritual cause lurking, as always it does lurk, in these suburbs and extremities of nature; let me see every trifle bristling with the polarity that ranges it instantly on an eternal law; and the shop, the plow, and the ledger referred to the like cause by which light undulates and poets sing;—and the world lies no longer a dull miscellany and lumber-room but has form and order; there is no trifle, there is no puzzle, but one design unites and animates the farthest pinnacle and the lowest trench.

This idea has inspired the genius of Goldsmith, Burns, Cowper, and, in a newer time, of Goethe, Wordsworth, and Carlyle. This idea they have differently followed and with various success. In contrast with their writing, the style of Pope, of John-

son, of Gibbon, looks cold and pedantic. This writing is blood-warm. Man is surprised to find that things near are not less beautiful and wondrous than things remote. The near explains the far. The drop is a small ocean. A man is related to all nature. This preception of the worth of the vulgar is fruitful in discoveries. Goethe, in this very thing the most modern of the moderns, has shown us, as none ever did, the genius of the ancients.

There is one man of genius who has done much for this philosophy of life, whose literary value has never yet been rightly estimated—I mean Emanuel Swedenborg. The most imaginative of men, yet writing with the precision of a mathematician, he endeavored to engraft a purely philosophical Ethics on the popular Christianity of his time. Such an attempt of course must have difficulty which no genius could surmount. But he saw and showed the connection between nature and the affections of the soul. He pierced the emblematic or spiritual character of the visible, audible, tangible world. Especially did his shade-loving muse hover over and interpret the lower parts of nature; he showed the mysterious bond that allies moral evil to the foul material forms, and has given in epical parables a theory of insanity, of beasts, of unclean and fearful things.

Another sign of our times, also marked by an analogous political movement, is the new importance given to the single person. Everything that tends to insulate the individual—to surround him with barriers of natural respect, so that each man shall feel the world is his, and man shall treat with man as a sovereign state with a sovereign state—tends to true union as well as greatness. "I learned," said the melancholy Pestalozzi, "that no man in God's wide earth is either willing or able to help any other man." Help must come from the bosom alone. The scholar is that man who must take up into himself all the ability of the time, all the contributions of the past, all the hopes of the future. He must be a university of knowledges. If there be one lesson more than another which should pierce his ear, it is the world is nothing, the man is all; in yourself is the law of all nature, and you know not yet how a globule of sap ascends; in yourself slumbers the whole of

Reason; it is for you to know all; it is for you to dare all.

Mr. President and gentlemen, this confidence in the unsearched might of man belongs, by all motives, by all prophecy, by all preparation, to the American Scholar. We have listened too long to the courtly muses of Europe. The spirit of the American freeman is already suspected to be timid, imitative, tame. Public and private avarice make the air we breathe thick and fat. The scholar is decent, indolent, complaisant. See already the tragic consequence. The mind of this country, taught to aim at low objects, eats upon itself. There is no work for any but the decorous and the complaisant. Young men of the fairest promise, who begin life upon our shores, inflated by the mountain winds, shined upon by all the stars of God, find the earth below not in unison with these, but are hindered from action by the disgust which the principles on which business is managed inspire, and turn drudges, or die of disgust, some of them suicides. What is the remedy? They did not yet see, and thousands of young men as hopeful now crowding to the barriers for the career do not yet see, that if the single man plant himself indomitable on his instincts, and there abide, the huge world will come round to him. Patience,—patience; with the shades of all the good and great for company; and for solace the perspective of your own infinite life; and for work the study and the communication of principles, the making of those instincts prevalent, the conversion of the world. Is it not the chief disgrace in the world, not to be a unit—not to be reckoned one character—not to yield that peculiar fruit which each man was created to bear, but to be reckoned in the gross, in the hundred, or the thousand, of the party, the section, to which we belong; and our opinion predicted geographically, as the north, or the south? Not so, brothers and friends—please God, ours shall not be so. We will walk on our own feet; we will work with our own hands; we will speak with our own minds. The study of letters shall be no longer a name for pity, for doubt, and for sensual indulgence. The dread of man and the love of man shall be a wall of defense and a wreath of joy around all. A nation of men will for the first time exist, because each believes himself inspired by the Divine Soul which also inspires all men.

# LIVINGSTON FARRAND

## THE WORK OF A GREAT PHYSICIAN

Livingston Farrand was born in Newark, New Jersey, in 1867, graduated from Princeton in 1888, M. D. Columbia 1891, was professor of psychology and later of anthropology at Columbia University and became president of the University of Colorado in 1914. From 1919 to 1921 he was chairman of the central committee of the American Red Cross and became president of Cornell University in October, 1921. President Farrand had conspicuous success as a scholar, as scientist, and as an administrator. He died in 1939. The following address was delivered at the Biggs memorial meeting of the New York Academy of Medicine, April 29, 1924.

I KNOW of nothing more misleading than the common practice of accounting for the distinguishing traits of a great personality by certain accidents of environment in his early life. The process would be peculiarly hazardous when applied to a character as many sided as that of Dr. Biggs. That inherent tendencies may be stifled by untoward surroundings is unfortunately as true as that they may be developed by favorable conditions in the plastic years of a human life. I have been asked to speak of Dr. Biggs as an alumnus of Cornell University and, in spite of the danger just mentioned, I cannot refrain from the reflection that the free and fearless atmosphere of that young and vigorous institution afforded a most stimulating medium for the expansion of the eager spirit of the youth who entered its doors in 1879.

It is a charge often made against our American system of education, and unfortunately only too well founded, that it penalizes the exceptional student and subjects him to the grinding of a mill that is adapted only to the abilities of the duller average. It has always seemed to me predictive of his later life

that, impatient of restrictions when they were in any way under his own control, Hermann Biggs completed the requirements for his bachelor's degree in less than three years and, carrying on his medical studies at the same time, was able only a year later to emerge from Bellevue with his doctorate of medicine and begin the active professional career which has now been cut short in its flower of world distinction.

It is more than an interesting fact that his baccalaureate thesis was entitled "Sanitary Regulations and the Duty of the State in Regard to Public Hygiene." That essay of an undergraduate foreshadows much of the life of accomplishment which we memorialize to-night. It was a demonstration of the characteristic which we came later to know so well—the instantaneous grasp of the significance of new discoveries of truth.

It would be difficult to cite words more dramatically prophetic than the closing paragraph of that student thesis presented in the spring of 1882. "Within the last month," he wrote, "there has come to us across the waters from Germany the announcement of what promises to be the grandest discovery of the age, the discovery of a parasite as the cause of tuberculosis by Dr. Koch of Berlin. . . . Too much cannot be expected of the far reaching consequences of this discovery; in it probably lies the solution of that problem so long regarded as insoluble, the cure of tuberculosis."

In that brief statement is reflected the illuminating mind of Hermann Biggs:

That his Alma Mater has followed his life of public service with appreciative pride I need not say.

The test of any university is in its product and the glory of achievement by its sons is welcomed and recorded with a peculiar satisfaction since it adds another stone to the foundation upon which that institution rests—that institution which history has shown outlives the changes wrought by wars and the social and political upheavals of the centuries.

It is, however, another characteristic of this man which I would make my theme to-night.

The aim of a university is to prepare its students for life. This is often confused with what it is not, namely, to give an initial advantage in the struggle for material success. Any

university worthy of the name is concerned with mental habits rather than with groups of facts; with character and ideals rather than with technical training of narrower import. Unless our schools and colleges can turn out men and women who can think clearly and act fearlessly in a confused world they have failed in their mission. Within our time at least, the demand for a citizenship of this type has never been as insistent as it is to-day. The disorder of a war-torn civilization is characterized by a reign of prejudice and an exhibition of loose thinking and hasty judgment which is nowhere more noticeable than in this complacent democracy of ours.

It is minds and characters like those of Hermann Biggs of which this country stands most in need. Who that knew him could fail to find the inspiration? That calm facing of a problem in whatever field; that clear and practiced probing for the facts wherever hidden; that inexorable reasoning toward the unavoidable conclusion; that patient survey of the field of application and that fearless action when possible accomplishment was seen.

It is because we need him so greatly that we mourn his loss so keenly. It is because his life stands as a model to eager American youth that the University which is proud to number him among her sons brings this word of sorrowing tribute to the memory of Hermann Biggs.

# HARRY EMERSON FOSDICK

## A CHRISTIAN CONSCIENCE ABOUT WAR

Harry Emerson Fosdick is an eloquent and effective preacher whose reputation is world wide. He was born in Buffalo, New York, in 1878, has been professor of practical theology since 1915 at Union Theological Seminary, and is the author of many books. He is pastor of the Park Avenue Baptist Church, New York.

At the annual meetings of the Assembly of the League of Nations sermons are preached in the cathedral of Geneva under the auspices of the League. This was the church of John Calvin out of whose preaching grew the Presbyterian Church. Dr. Fosdick delivered the following sermon at the Cathedral on September 13, 1925.

"All they that take the sword shall perish with the sword."—Matthew 26:52.

ONE ought to read with awe these words spoken nearly two thousand years ago and only now beginning to seem obviously true. Reliance on violence is suicidal, said Jesus. "All they that take the sword shall perish with the sword."

When the Master said that, it could not possibly have seemed to be true. Then it seemed evident that those who took the sword and knew how to use it could rule the world. Reliance on violence did not seem suicidal but necessary, salutary, and rich in its rewards. In these words of Jesus we have one of those surprising insights where, far ahead of the event, a seer perceives an obscure truth which only long afterward will emerge clear, unmistakable, imperative, so that all men must believe it.

Pythagoras in the sixth century B.C. had such a flare of insight when he guessed that the sun did not go about the earth but that the earth circled about a central fire. It was a surprising

leap of intuition. No one believed it. Long centuries had to pass before Copernicus and Galileo came and people in general were convinced of what Pythagoras with his inner eye had seen. So when the Master said that the sword would destroy those who used it, that seemed incredible. War suicidal! The world did not even note this strange thing that He said, and ever since men have tried to explain it away or laugh it off as idealism too lofty for this earth. But to-day that insight of the Master comes to its own. Once more the seer is justified of his vision. Reliance on violence is self-defeating; war is suicidal; civilization itself cannot survive it. That fact has been written in fire across the world until not seers alone, but multitudes of plain people of every tongue, tribe, and nation under heaven are beginning to see the truth once so incredible—"If mankind does not end war, war will end mankind."

To-day my plea is simple and direct. Of all the people on earth who ought to take in earnest this unforeseeable confirmation of the Master's insight, Christians come first. This question of war and its denial of the method and spirit of Jesus is peculiarly their business. Speaking from this historic Christian pulpit to Christians of many races and nations gathered here, one finds himself inevitably concerned with that matter—addressing, as it were, the conscience of Christendom about war. The destinies of humankind depend upon the arousing of that conscience. Here in Geneva you once more are setting your minds to the high task of working out the technique of international coöperation. In this sanctuary we set ourselves this morning to consider the dynamic without which all technique will fail—the conscience of Christians about war.

Doubtless we represent here many different kinds of Christianity. We belong to different Churches, hold various theories about ecclesiastical polity, subscribe to diverse creeds. But one thing does unite us all. We all start with and include the Master Himself. To all of us He is the Lord and His way is the way of life. At the fountainhead of our Christianity is Jesus Christ. His life with the Father, His faith in the moral possibilities of man, His devotion to the Kingdom or Heaven on earth, His Good Samaritan, His Golden Rule, His Sermon on the Mount, His law of finding life by losing it, His insight into

the self-defeating nature of violence, and His substitution of the way of love—all this is included in any special kind of Christianity we severally may profess. How, then, can any of us avoid the conviction that this colossal and ominous question of war, upon the answer to which the future of man depends, is in particular a crucial affair for Christianity? It has been said again and again that if another war befalls us and shakes civilization to its foundations, as it surely would, the Christians of the world will be to blame. Surely that is true. The continuance of war will advertise that the 576,000,000 professed Christians on earth have not had an earnest conscience about their Master's view of life; it will bear evidence that while they have called Him, "Lord, Lord," they have not been willing to do what He said.

Let us dwell, then, on some elements that ought to enter into the operation of the conscience of Christians about war.

For one thing, there is plainly the futility of war to achieve any of the purposes that Christianity is meant to serve. Indeed, there is modern war's futility to achieve any good purposes whatever. Once it was possible really to win a war. Once victors and vanquished stood in such opposite categories at a war's conclusion that there was no possibility of mistaking the prestige, prosperity, increased power and happiness of the one and the dismal annihilation of the other, but one shocking revelation of the last war was the indiscriminate ruin in which war plunged victor, vanquished, and neutrals alike, the ferocious and untamable way in which war, once let loose, tore at the garments of civilization as a whole so that, regardless of who won it, half the world found itself unclad and shivering when the storm was over.

In the history of war we have one more example of a mode of social action possibly possessing at the beginning more of good than evil, which has outgrown its good, accentuated its evil, and become at last an intolerable thing.

That was true of slavery. Men at first reduced to slavery those whom else they would have slaughtered after battle. Slavery was a substitute for massacre, profitable, doubtless, but also merciful. It was a forward step from brutal murder to enforced labor. But slavery did not retain its philanthropic good.

In the end it outgrew all its benefit and became an intolerable curse. In an evolutionary world ethics and modes of social action evolve also.

So there may have been times when war could serve good ends, when armed conflict was a means of social progress. Of this war or that it may be claimed that the sword won benefactions lacking which mankind would be the poorer. At least, there is little use in arguing the contrary. For the conviction now growing strong in this generation's mind is that whatever may have been true about war in times past, modern war is futile to achieve any good or Christian thing.

To fight with the gigantic paraphernalia of modern science; to make war in our intimately interrelated and delicately balanced modern world, where our most indispensable means of existence already have become international; to fight, not with armies against armies as of old, but with entire populations massed against entire populations so that bombs rain indiscriminate destruction on whole cities and blockades mean indiscriminate starvation to millions of families; to make war now, when an average five hours of fighting, as in the last war, burns up the endowment of a great university; to fight, knowing that, agreements or no agreements to limit the weapons of war, demoniac forces like gas and bacteria are certain to be used—that is obviously futile to achieve any good thing for which a Christian man might wish or pray.

The old appeals for war in the name of a good cause fall coldly now on the instructed ear and cease to carry conviction to thoughtful minds. "Would you not go to war to protect the weak?" men ask. The answer seems obvious. A modern war to protect the weak—that is a grim jest. See how modern war protects the weak: 10,000,000 known dead soldiers; 3,000,000 presumed dead soldiers; 13,000,000 dead civilians; 20,000,000 wounded; 3,000,000 prisoners; 9,000,000 war orphans; 5,000,000 war widows; 10,000,000 refugees. What can we mean—modern war protecting the weak? The conviction grows clear in increasing multitudes of minds that modern war is no way to protect the weak.

A World Court would protect the weak. A League of Nations would protect the weak. An international mind, backed

by a Christian conscience, that would stop the race for armaments, provide coöperative substitutes for violence, forbid the nations to resort to force, and finally outlaw war altogether—that would protect the weak. But this is clear: war will not do it. It is the weak by millions who perish in every modern war.

As for Christianity, the dilemma which it faces in all this seems unmistakable. The war system as a recognized method of international action is one thing; Christianity with all its purposes and hopes is another; and not all the dialectic of the apologists can make the two lie down in peace together. We may have one or we may have the other, but we cannot permanently have both.

Another stake which Christianity has in this task of overpassing war and providing international substitutes for it lies in the new and ominous developments of nationalism. In our modern world nationalism, with its attendant patriotic emotions and loyalties, has increasingly taken a form which threatens to be the chief rival of Christianity. To be sure, passionate love of country is nothing modern or new. Its roots are deep in man's instincts and man's history. We here to-day are patriots. We intend to be patriots. We should think less of each other if we were not patriots. Love of fatherland is one of the oldest, deepest, most instinctive and most noble sentiments of man.

But within the last four hundred years nationalism has taken a new and startling form in our Western world. With the England of Elizabeth, the France of Louis XI, the Russia of Peter the Great, the development began which more and more has nationalized both the inner and the outer life of all of us. Our politics have become nationalized until the aggrandizement of one's own country in the competitive struggle with other nationalities has been the supreme aim of statesmanship. Our economic life has become nationalized; the powerful financial interests of each nation have wielded so enormous an influence over its statecraft that government, with its army and navy to back it, has frequently been a docile instrument for the furtherance of the country's economic aims. Our education has become nationalized; our children have been taught from infancy

history all out of perspective, with national egoism for its organizing center and with hatred of other nations masquerading as patriotic training of the young. Even our religion has been nationalized; with state churches or without them, the center of loyalty in the religious life of the people has increasingly become the nation. Let Protestantism acknowledge its large responsibility for this in Western Christendom! In our fight for liberty we broke up the inclusive mother church into national churches; we reorganized the worship of the people around nationalistic ideals; we helped to identify religion and patriotism. And so far has that identification gone that now, when war breaks, the one God of all humanity, whom Christ came to reveal, is split up into little tribal deities, and before these pagan idols even Christians pray for the blood of their enemies.

Never before has human life, its statecraft, its economics, its education, its religion, on so large a scale been organized on a nationalistic basis, and the issue is obvious. The supreme object of devotion for multitudes is the nation. In practical action they know no higher God. They really worship Cæsar. That is the limit of their loyalty. What once was said of the king is said now of the nation: it can do no wrong. And such sheer paganism is sometimes openly flaunted, at least in my country, and I presume in yours, as, "Our country! . . . may she always be in the right; but our country, right or wrong."

Nevertheless, at the same time that this nationalistic process has been going on, another movement has been gathering headway. The enlarging fellowship of human life upon this planet, which began with the clan and tribe and has moved out through ever widening circles of communication and contact, has now become explicitly and overwhelmingly international, and it never can be crowded back again. Moreover, within this unescapable internationalism of modern life, not yet adequately recognized in government, mankind has been learning one great lesson from his social experiments. In area after area he has succeeded in getting what he wanted, not by violence, but by overpassing violence and substituting coöperation. That is what social progress consists in. All social progress can be defined as carrying over one more realm of human life from the

régime of force to the régime of coöperation. Wherever we have civilized any social group, the essential thing which has happened is that in that group, not force, but coöperation has become the arbiter.

That is true of the family. A household where men captured their wives, exposed their children in infancy, relied for obedience on the power of life and death over their offspring, would be recognizably uncivilized. A civilized family, with all its faults, enters into marriage by mutual consent, relies on reasonableness, not on force, for its coherence, and from the beginning welcomes children into the democracy of the household. At least we have learned that violence is no way to bring up a good family. That same path of progress we have traveled in education. Once violence ruled our schools. It was said of an old pedagogue, the Rev. James Boyer, that "it was lucky the cherubim who took him to heaven were nothing but wings and faces or he infallibly would have flogged them by the way." But now our schools at their best would be ashamed to rely on violence since reasonableness and coöperation so plainly offer, not only a more ideal, but a more effective substitute. In religion also, being civilized means traveling that road from violence to coöperation. Once force was used to compel faith. If a man wished to be a Christian he could be a Christian, but if he did not wish to be a Christian he had to be a Christian, and the centuries are sad with the horrors of religious persecution. But social progress has largely left all that behind and what compelled its supersession was not sentimentality but the insight that violence is self-defeating, that force is no way to get religion. So, too, has government been carried over from violence to coöperation. The process is lamentably incomplete, but, so far as it has gone, it has furnished the indispensable background for all the civilization we possess. Still upon our Western clothes we wear the buttons, now decorative only, on which once our fathers' swordbelts hung. How impossible it would have seemed to them that the time would ever come when the common carrying of private weapons would be unnecessary because coöperative and peaceful government had provided a substitute!

In one realm after another the Master's insight has proved

true. Violence defeats itself. It is no way to achieve family life or education or religion or stable government. Those who rely on it as their mainstay and effective instrument are sure to miss what they are seeking to achieve. Always progress has consisted in carrying over human life from violence to co-operation.

And now we face the next great step, the most momentous step in human history. Can we achieve a like result with our international relationships? Can we carry them over from brutality and organized slaughter to reasonableness and co-operation? How the best thinking and praying of our time center around that hope of superseding belligerent nationalism with coöperative international substitutes for war!

Here, then, we face one of the most crucial and dramatic conflicts of loyalty that men ever dealt with. On the one side, our life has been organized as never before in history on a nationalistic basis. On the other hand, the one hope of humanity to-day, if it is to escape devastating ruin, lies in rising above and beyond this nationalism and organizing the world for peace. On the one side is a narrow patriotism saying, "My country against yours," on the other, a wider patriotism saying, "My country with yours for the peace of mankind." Is there any question where real Christianity must stand in that conflict? Is there any question that if she does not stand there she faces the most tragic and colossal moral failure of her history? One would like to cry so that all Christians should hear: Followers of Christ, so often straining out the gnat and swallowing the camel, tithing mint, anise, and cummin, and neglecting the weightier matters of the law, what do all the minutiae of creed and institution that distinguish us amount to in the presence of this gigantic problem in which one of the central meanings of Christ for the world is involved? A narrow belligerent nationalism is to-day the most explicit and thoroughgoing denial of Christianity, its thought of God and its love of man, that there is on earth.

How evident this central problem is when we try to discuss the real issues of the world to-day! Some still see those issues in terms of one nation against another. That is the level on which their thinking runs. America versus Japan or France

versus Germany—so in a long list of nation against nation they see the world's affairs. How desperately real the problems are on that level no one needs to be told, but, after all, those are not the deepest issues. A clear conviction grows in the best thinking of to-day that mankind's realest conflict of interest is not between this nation and that, but between the forward-looking, progressive, open-minded people of all nations, who have caught a vision of humanity organized for peace, and the backward-looking, reactionary, militaristic people of the same nations. The deepest line of conflict does not run vertically between the nations; it runs horizontally through all the nations. The salvation of humanity from self-destruction depends on which side of that conflict wins.

What has happened thus to make a local, national patriotism, however sacred and beautiful in many of its forms, inadequate to meet our present need is clear. In unforgettable words the world has been told by a great patriot: "Patriotism is not enough." Why is it not enough? Well, patriotism once took men of little, local loyalties and expanded their outlook and allegiance. They had been citizens of a shire; patriotism made them citizens of a nation. Patriotism once called men to the widest imaginable outreach of their devotion; it broke down local provincialisms; it stretched human horizons; it demanded unaccustomed breadth of vision and unselfishness of life. To be a patriot for the nation meant a large loyalty as against the meanness and parochialism of a local mind. But the world has moved. Life has expanded and become international. Now it is possible for patriotism to fall from its high estate. Instead of calling men to wider horizons, it can keep them within narrow ones. Once the issue was patriotism versus a small parochialism; now the question may become patriotism versus a large care for humanity. Once patriotism was the great enemy of provincialism; now it can be made to mean provincialism and to sanctify the narrow mind.

This conflict of loyalties creates your difficult problems here in Geneva. You know how tenacious the adhesions of nationalism are, how difficult to entwine the thoughts and affections of men around new ideals and new methods of world peace. But this inner struggle between two loyalties goes deeper than

the realm of statesmanship; it runs far down into the souls of men where the destinies of religion lie. How can a man be a follower of Jesus Christ and still be a belligerent nationalist, when once this better hope of a world organized for peace has dawned upon his view? Whatever else Christianity may believe in, it must believe in God, Father of all men; it must believe in men of every tribe, tongue, people, and nation, as God's children; it must believe in the Kingdom of God on earth. The spirit of Christianity is not narrowly nationalistic, but universally inclusive. When the world, therefore, organizes itself on the basis of belligerent nationalism the very genius of the Christian Gospel is at stake. Once more we can have our old war systems with their appalling modern developments, or we can have Christianity, but we cannot permanently have both. They worship irreconcilable gods.

I need not, and I must not, press the analysis further. Two generations ago one of our great statesmen, Charles Sumner, said, "Not that I love country less, but Humanity more, do I now and here plead the cause of a higher and truer patriotism. I cannot forget that we are men by a more sacred bond than we are citizens—that we are children of a common Father more than we are Americans." Shall not each one of us here pray for his own country, as I pray earnestly for mine, that that spirit may come into the ascendancy? Christianity essentially involves it.

The first Christians saw this. "The early Christian Church," says a recent writer, "was the first peace society." Then came Christianity's growing power—the days when Christians, no longer outcast, were stronger than their adversaries, until at last the imperial household of Constantine himself accepted Christianity. Then Christianity, joined with the state, forgot its earlier attitudes, bowed to the necessities of imperial action, became sponsor for war, blessing of war, cause of war, fighter of war. Since then the Church has come down through history too often trying to carry the cross of Jesus in one hand and a dripping sword in the other, until now when Christians look out upon the consequence of it all, this abysmal disgrace of Christendom making mockery of the Gospel, the conviction rises that we would better go back to our first traditions, our

early purity, and see whether those first disciples of the Lord were not nearer right than we have been.

We cannot reconcile Jesus Christ and war—that is the essence of the matter. That is the challenge which to-day should stir the conscience of Christendom. War is the most colossal and ruinous social sin that afflicts mankind; it is utterly and irremediably un-Christian; in its total method and effect it means everything that Jesus did not mean and it means nothing that He did mean; it is a more blatant denial of every Christian doctrine about God and man than all the theoretical atheists on earth ever could devise. It would be worth while, would it not, to see the Christian Church claim as her own this greatest moral issue of our time, to see her lift once more, as in our fathers' days, a clear standard against the paganism of this present world and, refusing to hold her conscience at the beck and call of belligerent states, put the Kingdom of God above nationalism and call the world to peace? That would not be the denial of patriotism but its apotheosis.

Here to-day, as an American, under this high and hospitable roof, I cannot speak for my government, but both as an American and as a Christian I do speak for millions of my fellow citizens in wishing your great work, in which we believe, for which we pray, our absence from which we painfully regret, the eminent success which it deserves. We work in many ways for the same end—a world organized for peace. Never was an end better worth working for. The alternative is the most appalling catastrophe mankind have ever faced. Like gravitation in the physical realm, the law of the Lord in the moral realm bends for no man and no nation: "All they that take the sword shall perish with the sword."

# JAMES EDWARD FREEMAN

## A BISHOP'S CHARGE

The following charge to the diocese was delivered by Bishop Freeman in Washington in the fall of 1925. It provoked widespread interest as it deals with vital questions of importance to the church and clergy. Bishop Freeman was born in New York, July 24, 1866, and was consecrated Bishop of Washington, in 1923.

THE Canons provide that once in every triennium the diocesan shall give a charge to his Diocese. In fulfillment of this wise provision I venture this year to address you on matters that seem to me to be of paramount importance. There are two conspicuous and outstanding problems that clamorously call for the finest statesmanship and the most discriminating judgment and action. The one has to do with our obligations as a nation to those large questions that are related to the world in general, in fine, what are commonly designated "foreign policies." The other has to do with the more immediate and intimate concerns of our domestic and social life. The Church as an institution has been repeatedly warned to address itself to those questions that have to do with its own immediate interests. It has been frequently admonished to keep within its own prescribed sphere of influence. The result has been that, fearful to enter the lists in behalf of some great cause that involved the happiness and higher development of the world, it has been strangely silent, and by its silence has lost an opportunity of advancing some mighty and salutary reform.

I, for one, deprecate the intrusion of the Church, as an institution, upon the domain of political action. It has nothing to do with political issues unless those issues involve the peace and happiness of men. Too great caution and conservatism have repeatedly lost the Church a place of commanding power

and influence. An issue is before the world to-day that has to do with one of the weightiest of Christ's teachings, indeed it involves obedience to His second great command. It is an issue, the Christian solution of which involves the future of our civilization. That issue is nothing less than the large matter of world peace. If such a matter does not vitally concern the Church, if it is not an issue upon which its voice should be heard, then let us despair of ever approximating the ideal set before men by Jesus Christ. We had much, perhaps altogether too much to say concerning our obligations in a world war. We were certainly voluble and militant when it came to what America should do in a grave crisis. Can we be consistent and silent when a question that involves the peace of the whole world is in the balance? Great leaders of the late war have declared that if another world conflagration breaks out it will be largely due to the supineness of the Church and, if it comes, its consuming flames may make havoc of our boasted Christian institutions. Diplomacy has signally failed again and again, it has failed because it has too often been selfish and un-Christian. Its policies have been insular and sometimes insolent. Statesmanship has blundered along its blind and devious ways, thinking only of partisan advantage or the accomplishment of narrow and selfish ends. Great policies that might have resulted in untold blessings to mankind, have been thwarted and ultimately strangled, because they savored too much of the ideal; the ideal that grows out of a spiritual and exalted vision. "Behold, this dreamer cometh!" has all too frequently been the boastful challenge hurled at one who believed in better conditions and finer relationships; who took literally the great word of Christ: "thou shalt love thy neighbor as thyself." Repeatedly we have been coldly and callously indifferent where we beheld:

Right forever on the scaffold,  
Wrong forever on the throne.

Even our prayers have seemed to appeal to an unresponding and unheeding God, because our faith has disclosed itself in pious platitudes that gave no impulse to strong action. Great

and beneficent enterprises for the good of all mankind have had little of support from a Church that boasted loyalty to a life-giving and life-saving Son of God. Too often some lonely leader who bore all unselfishly and heroically his burden, has, like his Lord, been crucified and left, "unwept, unhonored and unsung." To-day a new challenge arrests and for the while holds the world's vision; it is the challenge to obey a divine command.

A conception of international comity and good will, of world neighborliness is before us. What shall be the Church's contribution towards its fulfillment? Men call it a political issue. No, it is a mighty moral issue; an issue that is designed to affect every home and fireside, that touches vitally the deepest of human concerns. Shall such a conception perish, because we of America, with selfish pride, in this period of unprecedented prosperity, regard our own well-being as carrying with it no responsibilities to the rest of the world? The practical politician calls a world fellowship an iridescent dream, impossible of accomplishment. Do we accept this dictum? Then let us prepare to see the Church as an institution lose its present place of circumscribed and restricted power and influence. By what method an agreement is to be effected between the nations, looking to the sane, amicable and Christian adjustment of differences, is for conscientious statesmen to determine. What we are concerned with, is the principle that was given the world by Jesus Christ, the principle that looks to a universal brotherhood. We have talked in glowing terms of brotherhood; the time has now come to effect it.

It cannot be effected if that institution that was created to teach and enforce it, remains silent and indifferent. The Church has too long disclosed apathy where great moral issues were at stake; it dare not now, else it will forfeit the confidence of men, and cease to be a factor in the shaping of human affairs. Silence to-day brings confusion and disaster to-morrow.

Of whom is the Christian disciple afraid? What worldly power or influence does he fear? Shall a Christian principle that the Master gave as the second great command be set aside, because it seems impracticable and inexpedient to those who would insulate America from the rest of the world? Have we

become so opulent and self-assured that we feel immune to the ills that afflict the rest of mankind? Shall we say to the sisterhood of nations, we will trade and barter with you, we will give you what we produce for your gold, but we will not share with you the burdens, or solve with you the problems that afflict mankind? When in the council chamber the roll of nations is called, shall there be no answering and authoritative voice that speaks for America?

Let us not unduly assure ourselves that our boasted wealth and power guarantee to us in perpetuity life, liberty and the pursuit of happiness. God has not given us patents royal to this fair land, that we might live apart from His children. What we have of genius, of wealth, of moral and intellectual gifts, we dare not reserve for home consumption. We have a moral obligation to share our bounty with the world. We shall increase the bounty only as we share it. Nations as proud as ours, are not asking us for doles in times of distress and disaster, for the gift without the giver is bare; they are asking us to aid in averting disaster, to give what we have of moral worth and fair judgment to the solving of world problems. An astute and exceedingly clever and popular writer said a few years ago: "Two great tasks lie before humanity in the rest of the twentieth century. One is to put under control of true morals and of democracy, the great power of human production which came in the nineteenth century. The other is to check, to limit and finally to eliminate the institution of war. We may stagger on, and make progress, even though the industrial and financial structure remains as it is. But if war goes on unchecked, following its present tendencies, it means the elimination of whole races, and the downfall of civilization." No student of recent events doubts the accuracy of this statement. In the face of such an impending doom shall we give place to the cynic, who sees no hope of bettering human conditions? Said a wise observer and prophet some time ago, "if the 19th century made the world a neighborhood, the 20th must make it a brotherhood!" Yes, either a brotherhood or an inferno!

Every human agency, every new invention is bringing into closer fellowship the hitherto unrelated elements of the world.

Insularity cannot longer be. Either we Christianize the world or the world will paganize us. Armament is a blighting curse, war is a scourge and an unmitigated evil. We have long said so, let us league our Christian forces to end it. Christ must be made regnant in the hearts of men.

Describing the prevailing power of this divine Master, a modern dramatist puts into the mouth of the centurion who stood by the cross, these words, addressed to the lonely Mary: "I tell you, woman, that this dead son of yours, disfigured, shamed, spat upon, has built this day a Kingdom that can never die. The living glory of Him rules it. The earth is His and He made it. He and His brothers have been molding and making it through the long ages; they are the only ones who ever did possess it; not the proud, not the idle, not the vaunting empires of the world. Something has happened on this hill to-day to shake all the kingdoms of blood and fear to dust." Let us believe that he spoke with prophetic insight. Let us believe that the "vaunting empires of the world" are presently to feel the sway of His scepter. Better that we stand for this, cost what it may, than that we stand forever in the shadows of an unending Gethsemane. Here is a cause that unites Christians of every name about the blood stained standard of the Crucified. The pressure of a unified Christian sentiment, representing as it does millions of our people, only needs to be stirred, until like an irresistible force it sweeps from ocean to ocean. If we encouraged men to arm to protect civilization, let us inspire them to disarm to save it. If we believe that the Christ's teachings are authoritative and that they are designed for practical ends, then for once let us, in spite of the reasoning of practical politicians, put them to the test. If hitherto we have believed in holy wars, let us now believe in a holy peace. "Here we stand; we can do none other, so help us God!" No high-sounding resolutions will effect anything. Only an aggressive and insistent policy in every department of the Church's enterprise will set forward the high claims of peace.

America, enriched and blest of God, shall give of her soul, that all mankind may know, that her highest and holiest aim, is the emancipation of men from the thralldom of war. In-

spired by one holy ideal and purpose let Christian minister and statesman unite, to send forth from this mighty capital of our beloved nation, the message of the heralding angels, "Glory to God in the highest, and on earth, peace to men of good will."

America, America!  
God shed His grace on thee,  
And crown thy good with brotherhood  
From sea to shining sea.

The second imperative demand upon us to-day, has to do with the intimate concerns of our domestic and social life. The post-war period has witnessed the unleashing of forces that, unrebuked and unrestrained, must ultimately work our ruin. Liberty has lost its dignity and sense of decency and degenerated into brazen license. Wholesome restraints and time-honored conventions have been abrogated. To "commit the oldest kind of sins the newest kind of ways," is the ruling passion of the hour, for "now a time has come to mock at form." This is disclosed in many and conspicuous ways, from habits of dress to social customs and usages. Parental control, the unbroken unity of the home, have for the while lost their place. Marital ties are so loosely effected that they have become the legal sanctions for an adulterous union. One in every eight marriages is dissolved and the sanctity of the home is thus imperiled. So-called "good society" winks at indiscretions, and the libertine mingles freely with the chaste and wins the plaudits of the bold adventurer, whose exploits give piquancy and zest to the otherwise colorless inanities of the drawing-room. The youth, reared in such an atmosphere, comes to regard chastity as a cheap and worthless virtue, and gives unbridled rein to his passions. A scandal thus becomes a matter that relieves the tedium of a dull and prosaic existence, and lends freshened interest to the news items of the day. Court-rooms where the most salacious and abandoned recitals of evil living are rehearsed, become as magnets to draw those whose moral obliquity and delinquency find satisfaction in that which is corrupt and foul and putrid. The cynic sees in all this the triumph of evil

over good, and rejoices in the progressive moral depravity of the race. These conditions are reflected in the habits and customs of the hour. They are not restricted to limited areas, nor confined to an abandoned minority. They invade every domain and know no limitations or bounds. Why should they, when homes of accepted decency and refinement open their gates to the pure and the impure, to things of good report and evil report? How shall youth discriminate when those of mature years and assumed decency show no judgment or discretion? When the pace is so swift that it undermines the physical shall we be amazed when the moral discloses weakness and decay?

Agnes Repplier wrote an illuminating article some time ago, entitled "The Repeal of Reticence," in which she indicated fairly and without exaggeration the greater laxity and looseness that characterize both conversation and social habits to-day. To her view a situation is presented, wherein all wholesome restraints are relaxed; all reserve cast aside, and the doors flung open wide to any theme or subject, however unchaste and vulgar it may be.

This is hardly to be wondered at when much of our literature and drama are freely and flagrantly exploiting the lowest and coarsest in life, garnishing it with the most insidious if fascinating forms of expression. The erotic play that portrays the indecencies of life and that does violence to the most sacred of all human institutions, is generously patronized by those who profess decency and respectability. In the corrupting atmosphere of such scenes as the stage has presented within recent months, can we expect anything other than moral degeneracy in those, young and old alike, that witness them? What do selfish playwrights or producers care what results accrue to their sinister and corrupting dramas, when their patronage comes from those who boast refinement and respectability?

If parents have no concern for the things that are pure and of good report, if they feel no responsibility for guarding their children from the leprous and the unclean, why should they care who profits by their indifference?

Can a brief weekly hour of worship cleanse hearts and minds that have been filled for six days with the unwholesome and the unclean? Can any religion, Christian or other, have any ap-

peal for those who have felt and responded readily to the call of the world, the flesh and the devil? There can be no Sunday for such, no day of hallowed associations, with reverence and worship and soul culture. In the face of such conditions the Church may issue its call, but it will not be heeded. It may employ every artifice, but it will have no adequate answer. One wonders if we have come upon a time when the Church has no message, no voice that will be heard! Yes, one wonders at its silence and indifference, and now and again is amazed at its acceptance of a situation it seems either powerless or unwilling to boldly attack. The Gospel for an age of sin is little heard, and the insistent demands of Him who cleansed the Temple precincts with knotted whip-cords, are pressed with restraint and caution. Is it any wonder that our Christian religion loses its appeal to the youth, where its disciplines are disregarded by those who profess it? Matthew Arnold declared conduct to be three-fourths of life. Are we addressing ourselves to the remaining fourth, leaving conduct untouched by the high claims of Christ? You and I still believe that what Christ came to earth for, was the enriching and ennobling of men, the cleansing of society, the stabilizing of the home, the making more wholesome and helpful the conditions of life; yes, that it was an abundant life He designed for His children. Are we approximating these conditions to-day? And if not, what is to be the future for our children and children's children?

Savonarola dared to attack the flagrant vices of his time, even though they met with royal favor. Courageously he stood against the powerful and reigning houses of his generation, and though they ultimately destroyed his body, his mighty soul has prevailed, and his life is one of the beacons that still lights the world on to better days. Studdart Kennedy well says that the one thing he is afraid of is, "not hell, but life without God, life without anything real to live for." He suggests that which is the vital matter in this critical hour. Can the world go on, except to moral bankruptcy and utter ruin, without the consciousness of God? Will wealth, or power or the genius of man, deliver us from the curse of a Godless world? The tragedy of our present situation is the restlessness and dissatisfaction that prevail. Beneath and behind all the swift and highly colored

occupations and movements of the hour, resides unrest, dissatisfaction and a longing for something the world cannot give.

The cisterns which men have dug will not and cannot satisfy the thirst of the soul. Man is incurably religious, and ultimately he must turn from the uncompensating and unsatisfying, to that which gives him peace. Must we not believe that there is weakness somewhere in the Church, yes, conspicuous weakness, that no adequate resistance has been offered to stem the tendencies and violent currents of the hour? The great prophets of other times dared to proclaim a Gospel that demanded heroic service.

When we come to study fairly and without bias the attitude of the church, what do we find? Among other things we discover the loss of definiteness of teaching, issuing in relaxed ideals. For a generation the Church has been in the process of retreating and receding from one position to another, until it is difficult to know what its reasonable and sound and logical stand is on any question affecting conduct and belief. A spirit of compromise has seemed to seize it. This with individualistic conceits and consequent loss of authority has so diluted its message, that the people themselves are confused and bewildered. Accommodation to local conditions and a conveniently flexible standard, easily adapted to varying needs, have characterized much of its ministry. Once we frowned on indulgences, but too often they are granted to-day, and from unworthy motives. The practice of religion has been made so easy, and its word of authority so colorless, that to the reflective it makes no appeal. We have largely substituted systems and forms and organizations for deep-seated, life-controlling religious convictions. A so-called "comfortable gospel" is out of consonance with that given to men by Jesus Christ.

He set before those who would come after Him, a life of self-discipline, and His great Apostle prescribed: "Endure hardness as a good soldier of Jesus Christ." An anemic gospel that lays no claims upon discipline makes no appeal to strong, virile men and women. We shall hardly challenge the awakened and self-reliant youth of our time, by presenting to him an easy way of salvation. Lowered standards or a loose code of ethics substituted for the discipline of Christ has lost the

Church a large following among the youth, and impaired its influence with men and women of strong convictions. Let us be admonished by the ancient word: "If the trumpet give forth an uncertain sound, who shall prepare himself to the battle?"

At such a time as the present the very security of the Church as an institution is imperiled and no undue conceit or assurance can save it from loss of prestige and power. Says a brilliant English preacher as he surveys the situation: "Unless the Church is a means towards the sanctifying of common life, unless our worship here is a means to make every place and every time a time with God in His presence, unless our prayers and our sacraments help us to hallow the whole of the rest of our lives, unless our Eucharist helps us to see every common meal as a sacrament, unless the consecration of our churches helps us to consecrate every house and dwelling and shop and street, then we had better not have a church at all; for we are falling into the grievous error of making certain things sacred at the cost of making everything else profane." Startling words these, but not too startling to one who really senses the situation. Only as we evaluate the facts in the case, only as we come to fully realize the comparatively small influence which the Church is exercising over the habits and customs of the time, can we appreciate the demand for a bolder presentation of its claims.

You and I believe that Jesus Christ is the supremest need of the hour, that without Him, civilization with all its accumulated treasures is jeopardized. We believe that His teachings, unobscured and undiluted by our conceits, we are solemnly bound to present to men, whether they like them or not.

The demand for more and better preaching, for more courageous preaching, is urgently recognized. It has lost none of its power, and where it is exercised men heed it. It is a first century gospel adapted to twentieth century needs, and interpreted in twentieth century language that is demanded. The Archbishop of Canterbury has, in a memorable utterance, set this before the clergy of the English Church, and even the gloomy Dean of St. Paul's makes bold to say that, even if the golden age of preaching is past, there is an insistent demand for the informed, equipped and inspired prophets to-day. So

far as in me lies, I call my brethren to a fresh recognition of the prophet's place and power. I beg them to give increasing heed to their pulpit ministry. I urge them to attack with the vitalizing gospel of Christ, the body and soul destroying evils of the present hour. I press upon them the high and holy claims of a ministry that demands, first of all, a passion for souls. I plead with the great body of laity to be true to their Church's ideals, to avoid all appearance of evil; to boldly rebuke habits and practices, however popular they may be, that contravene the law of Christ; to stand forth against any and all customs that are unwholesome, unclean and indecent. The salt has not lost its savor, and a small group of high minded and courageous men and women have repeatedly saved a situation that was grave and threatening. The hour has struck for an aggressive crusade for Christ and His Church; it calls for the most complete consecration, the highest and finest and most discriminating intelligence, and a courage that reckons not life dear unto itself, that His Kingdom may come and His will may be done among men.

■

# CASS GILBERT

## SIR CHRISTOPHER WREN

The following address is a tribute from a great American architect to the greatest English architect of the past. It was given at the College of William and Mary, Williamsburg, Virginia, October 20, 1923. Cass Gilbert (1859-1934) stood at the head of the profession of architects. He is most widely known as the creator of the Woolworth building, but many great and beautiful buildings throughout the country testify to his skill. He received many honors at home and abroad, among them the gold medal of the National Institute of Arts and Letters.

WHEN one approaches London, from any direction, the great dominant note in the landscape is St. Paul's Cathedral. From afar its huge gray dome and golden cross is flung aloft above all of its surroundings. Be it in the early morning when the first glowing ray of the sun forms it into something more than a vast pattern against the sky, gives it rotundity and color and molds its noble lines anew in light and shade. Or, be it at noonday when the roaring human tide of traffic sweeps around its base and high above the crowded street it rises serene and still, perchance in the full glare of a summer sky, perchance shrouded in mists like some great headland on the coast. Or, be it in the evening when the setting sun rests lovingly and gently on its venerable form and it seems to proclaim a benediction of peace on the vast multitude below, or, yet at last in the stillness of the night, when, rising into the dark, its vast bulk seems to melt away into the starry sky; the street lamps at its base casting shadows upward that prolong its height and increase the sense of solemn mystery and power that is there. By day or night, in sunshine or in mist, visible or veiled it looms there still, as the very symbol of London. There enshrined lie many of the heroic dead of England and rever-

ently we pass among their monuments. There, was held the great thanksgiving for the victorious ending of the World War. There, *Te Deums* have echoed down its aisles in humble acknowledgment of the Nation's thanks to God!

Turner said of St. Paul's, "It makes London." On some quiet Sabbath afternoon let us visit St. Paul's coming as we do from afar. It invites us. For we, too, are of the race that inherits its glory. We gaze upon its majestic proportions, we marvel at the skill which created it, and, stilled, pass from under the vast canopy of its dome, down the vaulted nave, through the noble portico to the street. The great city again envelops us as we wend our way toward the west, turning for one lingering look that shall more deeply impress our memory or assure us that what we have seen is a reality and not a dream, we see its huge western towers rising above that marvelous façade; and, over all, the great dome topped by its golden cross, the wet pavement carries its reflection far down the now abandoned street—and a wisp of white cloud drifts by and for a moment veils the cross or throws it into strong relief, symbol of the life of the master who placed it there. The roar of London is stilled and only an echoing footstep or the distant clang of a bell is heard, and all is peace within. We are awake, but if it *was* a day dream, it is one whose impression shall never pass from our souls if we live an hundred years!

It is interesting to note some of the conditions preceding the erection of the present great Cathedral. London was still a medieval city and had grown in a haphazard fashion, until in 1665 it had a population of 460,000 souls. Timbered houses projected over the scant walkways and the then St. Paul's Cathedral was an ancient edifice located on the ruins of a still older temple and now fast crumbling into ruin. The streets of the city were crowded and tortuous, for the most part narrow and dirty. Sanitation of a modern sort was practically unknown. Thinking men must have foreseen the danger of such conditions but could not forestall it. Within sixty-two years there had been only three in which no deaths from the plague are recorded. In 1665 the Great Plague swept over London. Two-thirds of the population fled from the city and nearly

70,000 perished. Then came the Great Fire in September, 1666, which, disastrous as it was, is credited with having caused the disappearance of the plague in that city, though truth to tell it became less prevalent in other places as well and shortly disappeared, for the time at least, as an epidemic in England and in Western Europe.

The Great Fire was the starting point of modern London, for it made the rebuilding of the city a necessity and with it the rebuilding of St. Paul's Cathedral and some fifty-three parish churches and gave occupation to the genius of a man already in the prime of life and known as one of marked personality and distinguished attainment. It was a changing age. New conceptions of government were being evolved and political turbulence was the order of the day, if so paradoxical a phrase may be used.

The Elizabethan epoch with its heroic characters had passed from the stage some two generations before, and they were fading into the background of history.

Charles V., Philip II., William the Silent and the Virgin Queen had ruled and gone.

Shakespeare and Spenser had left their indelible impress on the English language and on literature. Drake, Frobisher, Gilbert and Raleigh had "singed the beard of the King of Spain" and had left their imperishable record of triumph at sea.

England's position as a great power was secure. Her quarrels with Scotland seemed at an end by the seating of a Scottish monarch on the English throne. Her commerce found markets throughout the world. Learning and culture was the fashion of the time—though war seemed no less the preoccupation of the ruling powers.

It was now the period of Charles I. Cromwell, Charles II., James II., William and Mary, Queen Anne and George the First followed in rapid succession.

In the lifetime of the subject of our sketch six monarchs and the Protector ruled England. The battles of Marston Moor and Naseby were lost and won in the struggles of King and Parliament. Milton wrote his *Paradise Lost*. Louis XIV. was on the throne of France. Richelieu and Mazarin intrigued at Paris. Bernini was building the great Colonnades of St. Peter's

at Rome and Mansart was erecting the Palace of the Louvre.

The American Colonies were struggling into existence as outposts of civilization. Williamsburg was founded as the future capital of Virginia, and the spot where we now stand was dedicated as its seat of learning, under the special patronage of the Dutch-English king, William and of Mary the Queen.

In London, Inigo Jones (having studied his art in Italy) had erected in the style of the Italian Renaissance as much of the great Palace of Whitehall as was ever built, Samuel Pepys and John Evelyn were recording in their diaries the gossip of the day. It was an age of mixed impulse, not unlike our own.

It was on such a background that the portrait of Sir Christopher Wren, the Architect of St. Paul's Cathedral and the father of the English Renaissance, must be painted.

It was two hundred and ninety-one years ago to-day that Sir Christopher Wren was born in the rectory at East Knoyle in Wiltshire, England. He was born October 20, 1632. His death occurred February 25, 1723. I had better have said his "immortality," for thenceforth he was to be of the immortals of our Anglo-Saxon race.

This long life of well over 91 years was filled to overflowing with works that have left a permanent record in the annals of England and deeply influenced the intellectual and artistic life, not only of his own time, but of the two hundred years that have followed.

Within a few days after the Fire, Wren was appointed by the King to prepare a plan for the rebuilding of the city. This plan provided certain centers, as at the Royal Exchange, from which should radiate greater and lesser streets. These centers were to be connected by broad avenues but, to avoid congestion at the points of intersection, smaller streets were to encircle the main centers and thus distribute the traffic. The King approved the plan but the bickering and suspicion which ensued defeated the great project and it went the way of so many great city plans of our own generation. Wren was a city planner born two hundred years ahead of his time.

It was not until 1674 that the site of St. Paul's was cleared and we find Wren in charge of the new structure. His first

design, made before the Fire, had been rejected, his second design met the same fate, though it had been approved by Royal Warrant in November of the previous year. A third design was finally approved by the King on May 14, 1675, and is known as the "Warrant Design." Fortunately with the approval, Wren was given the "liberty in the prosecution of his work to make some variations, rather ornamental than essential, as from time to time he should see proper, and to leave the whole to his management." A truly wise provision, for the Warrant Design was quite unworthy of execution; its principal feature being a dome upon a dome crowned with a spire of absurd proportions and having somewhat the aspect of a Chinese pagoda.

It may be that the astute Evelyn guided his friend through the troublous waters of court and church intrigue to a point where the work could go forward, under a proviso that made it possible for Wren to revise the design as "he should see proper." Wren himself was no mean diplomat; and he was bold enough, once started, to interpret his authority very liberally as to the external form of the design, though he adhered faithfully to the main features of the plan.

Time forbids a more detailed discussion of the progress of the work or description of its plan and construction; suffice it to say that the first stone of the new building was laid in 1675 and for thirty-five years the growing fabric was Wren's constant care. In 1710 Wren's son, Christopher, laid the top stone of the lantern which surmounts the dome, in the presence of Sir Christopher and of Edward Strong, the faithful builder, and other workmen who had assisted him on the building.

In closing this chapter of Wren's life we may be pardoned for the reflection that more often than not the greatest works of the masters in architecture have been misunderstood and marred by hands that knew not what they did. Is it inherent in the nature of the case that the burden which the master bears must include this unthinking interference? Brunelleschi, Michael Angelo and Christopher Wren, the authors of the three greatest domes of modern times, all suffered it and rose above it as part of their victory. Theirs the greater glory for

having given the inestimable boon of beauty to their own generation who saw, but knew them not, and to the millions who come after them and who render homage only after the master is dead!

Such in great measure was Wren's fate—such the scant reward of his old age—such his triumph after death!

Let us not smugly praise ourselves for freedom from this fault, but humbly take the lesson to ourselves, for be it remarked in passing that L'Enfant the author of the plan of Washington was dismissed and died in neglect and poverty; Thornton the architect of this Nation's Capitol was displaced before his work was finished, and Thomas Walter the architect of the wings and the dome of the Capitol died in poverty unpaid for his services. As I have said of Wren's time, it was not unlike our own.

It is of especial interest to us in America and particularly in Virginia, to know that Sir Christopher was the architect of the original plans for the College of William and Mary at Williamsburg. The authority for this assertion rests upon the statement of Professor Hugh Jones, an English clergyman who came to this country in 1698 and first had a parish in Maryland. He was elected Professor of Mathematics at the College in 1719 and served until 1724 when he returned to England and published his book entitled "The Present State of Virginia." After describing the College he adds:

The building is beautiful and commodious, being first modeled by Sir Christopher Wren, adapted to the nature of the Country by the Gentlemen there; and since it was burnt down, it has been rebuilt, and nicely contrived, altered and adorned by the ingenious direction of Governor Spotswood, and is not unlike Chelsea Hospital.

The fact that Wren was patronized by both the King and Queen, the latter being especially his friend, that he was the official architect for the Crown at the time, and that no important new public work went on without his advice, all point to the correctness of Hugh Jones' statement. Besides this, the plan is typical of Sir Christopher's mode of thought. It is just such a plan as he would have made. Symmetrical, well bal-

anced and academic in character, it strongly reflects the type of his academic work in England and bears evidence inherent in itself of his authorship.

Wren was a bold designer and a daring constructor. Inventive and ingenious he dared to follow where his logic led, and to build according to his own invention with unfailing confidence in the practical value of his science and knowledge. This quality made him a creator in the largest sense. It inspired and kept alive the confidence of those working under him and brought to his aid their unhesitating coöperation and loyal support.

The structural design of the dome of St. Paul's is an especially notable example of this characteristic. It consists primarily of a cone of brick work which like an inverted funnel surmounts the drum of the dome. This cone supports the timbered outer dome and the graceful stone lantern which crowns the whole fabric. There is an inner dome, far below the cone, which gives the right proportion to the interior but which is not dependent upon the cone. The brick cone is a circular wall 18 inches thick, the area of the top of the cone is about 150 square feet; and this sustains the lantern, which weighs 700 tons, hence this brick work must be carrying four and two-thirds tons per square foot. A weight which we would hesitate to place on many walls of modern brick work. And, remember, this vast weight is swung aloft over the great void of the rotunda far below.

We may picture in our minds the slender little old man, still master of the works, master builder and architect to the end as he was, now too old to climb the lofty height, being hauled up in a basket by rope and tackle to inspect the work. We can imagine with what respectful tenderness his workmen must have welcomed him at that dangerous height. And how his cheery word and his confident bearing must have renewed their courage in the hazardous task.

Wren chose his workmen and contractors and particularly the artist craftsmen with care and wisdom. Thus Edward Strong the master mason; Bird the coppersmith, Tigou the iron worker and Grinling Gibbons the carver and modeler were his constant associates. When he found good men he kept

them near him; and constantly employed them, scorning the charge of favoritism. In these days we let contracts to the lowest bidder and in doing so reduce the quality as well as the price. And by this process do we discourage good builders and good craftsmanship. We save the money but we pay the price in quality. Not so Wren!

He employed the best, for only by doing so could he secure the quality. The endurance of his buildings testifies to his wisdom in this as in other matters. He made those associated with him his friends, they shared his problems and helped to solve them and became almost a separate guild, under his leadership, building well what he planned.

Sir Christopher Wren conceived his plans in a bold, original, logical way, adapting them to the practical conditions existent, and developing them to meet the changing conditions of the times. To him the church was a living organism and as in his time it was evolving from medieval to modern life, his church buildings reflect that evolution. It was under this impulse that he planned churches like St. Stephen's, Walbrook and St. Mary-le-Bow, and especially the "Model Design" of St. Paul's. We can well imagine how such a spirit must have chafed, under the narrower viewpoint of some of the reactionary churchmen and certain members of the Court who supported them, when he was forced to abandon it for the "Warrant Design" with its cruciform plan and its typical nave and choir, typical in plan of the more familiar Gothic Cathedrals even though clothed in Renaissance garb of pilasters and entablatures. This plan he was forced to adopt in place of his conception of a still vaster rotunda, surrounded with vaulted aisles and chapels, of truly Roman magnificence.

As an architect, Wren was a "stylist" in the true sense of the word; for, though he did not create a new style, he did mold the Renaissance style of his period into an English type unmistakably different from the Italian or French. Hence he is rightly called the Father of the English Renaissance. As an artist he perceived that the refinements of the Italian Renaissance could not be expressed in the atmosphere and climate of England, so the forms and details which he developed became more robust and solid, not more beautiful than the Italian

or French Renaissance but better adapted to the light and shade and atmospheric quality of England. Here again, as always, is found the stroke of the Master's hand. Wren the consummate Master of his time!

We honor ourselves in meeting here to-day to pay honor to the architect of this College. We should treasure his memory, study his life and works and erect a memorial here in his honor. Whether that memorial be the erection of statue, bust, or tablet, or whether it take upon itself the larger and more useful form of the completion of his design in the College buildings and campus, is not for me to suggest, but I am sure that the fact that he once gave his thought and genius to the construction of this noble institution should inspire all who come within its influence to lofty ideals and noble aspirations.

Let us remember that Wren "took all knowledge for his province" and be guided by his example in so far as we may, and here educate the youth of our country that they may be worthy descendants of that old Anglo-Saxon race to which the world owes so much and of which we are justly proud, and here also let us perpetuate the art which he so grandly practiced so that the immortal epitaph inscribed upon his tomb in St. Paul's Cathedral could not unworthily be placed here also:—

*Si monumentum requiris: Circumspice.*

# BASIL LANNEAU GILDERSLEEVE

## A TEACHER TO HIS PUPILS

Basil L. Gildersleeve, one of the most eminent of American scholars, was born in 1831 and died in 1924. He served in the Confederate Army and was professor of Greek and of Latin at the University of Virginia and professor of Greek at Johns Hopkins University 1876-1915. Professor Gildersleeve was noted for his wit as well as for his scholarship. *The American Journal of Philology*, of which he was editor for many years, contained a department entitled "Brief Mention," to which he refers in this address and which found many readers outside of the ranks of classical scholars. Professor Gildersleeve was a speaker and lecturer of rare quality. The following speech was delivered at a banquet given by former students in his honor on February 20, 1902, in Baltimore.

I WILL not say that this is the proudest moment of my life. The only line of Lincoln's favorite poem that I can recall is "Oh! why should the spirit of mortal be proud?" but it is a line that in one form or another I have been saying to myself ever since I learned the Book of Proverbs and the Shorter Catechism. I will not say that this is the supreme moment of my long career, because I do not conceive life as a race course or a circus, but as a climb, and I am still climbing. But your loving kindness, your devotion, your self-sacrifice have brought me to a high point from which I can look back on the long way that has been traversed, and look forward to the still longer way that is to be trodden by your feet and the feet of your successors. And my heart is full of joy, full of gratitude that I have been permitted to lead, if only after a fashion, such a company of eager and consecrated spirits. One of the most dashing rough riders that have ever curveted on the plains of philology, or performed feats of lofty tumbling on the heights of scholarship, has said one thing that has been much in my

mind during the last few days. *A nullo libentius discas quam a discipulo.* True, there is a dangerous element of pride lurking in this sentiment, that very pride which one would keep down; and yet love and gratitude will not allow that pride to be a mortal sin; and, as I look over the names of the contributors to this superb volume, names written high in the annals of their chosen domains of work, names that are associated with the forward movement of our world of research; when I glance over the various themes that have been handled, and I think of the light that has come from all this patient and intense study, I feel how good and pleasant a thing it is to learn from those who have once called me teacher, or haply here and there in early enthusiasm, master. Everyone who has ventured out of the classroom into the larger world, everyone who has brought his wares into the open market, who has delivered addresses and compiled textbooks and written essays, is more or less tempted to measure his success in life by the reception which has been accorded to the work that is intended for the public ear, the public eye. The author multiplies himself by the man that he reaches directly; and the teacher with his narrower circle shrinks in his own estimation. This false standard seems inevitable; and I do not deny that I have been at times under its domination and have called myself a respectable failure. But an hour like this rectifies the count; and as the most successful writer in our line of work can only live on, and live on impersonally in the few little contributions he has made to the vast sum of that which is known, so a teacher who has done his duty day by day, a teacher, who has been privileged to guide and inspire the studies of so many high and enthusiastic spirits, may be reconciled with his lot in life, may rejoice in it.

No one, let me add, is in a better position than I am, to know what such a volume as you have offered me has cost the givers. Every little monograph represents many hours of hard work and intense thought. Who knows this better than the paragraph writer of "Brief Mention"? The volume which you have given me has been brought together by editorial labors which no one can better appreciate than the man who has been over a score of years in the editorial harness.

But as I look from one to another of the group of men who

have made me their debtor for the rest of my life, I miss the lithe form, the flashing eye, the kindly presence of one who threw himself into the task with all the ardor of his nature. May I ask a pause for a silent tribute to the memory of Morris Sutphen.

This sad note could not be kept out of this joyous meeting. But after all, be a course short or long, it is complete in the eyes of the great Master, to whom we reverently commit all our ways. There is no broken column. The Supreme Architect finishes the shaft.

And so back to life and all its claims. You have cheered my heart for what remains of toil and endeavor. You have shown, what after all appeals to me most, that you have recognized in the brazen bowels of a Didymus Chalkenteros, the great grammarian—that you have recognized in one who has spared you as little as he has spared himself, something that yearns and loves. Else there had not been this manifestation of affection, for it is love that begets love. And so to all the little band in this upper room, and all the absent brothers who live in the airy regions of high thought and high purpose, my best wishes, my heartfelt thanks.

# WALTER HAMPDEN

## ON RECEIVING A GOLD MEDAL

This address was delivered on the occasion of the presentation of the gold medal of the National Institute of Social Sciences in May, 1924. No American actor has done more to maintain the highest ideals of his profession than Mr. Walter Hampden. He was born in Brooklyn in 1879 and made his first appearance on the stage in England in 1901. He returned to the United States in 1907 and has attained a secure place among the interpreters of Hamlet and other great Shakespearean parts.

LADIES AND GENTLEMEN:—I fancy it is incumbent upon me to utter a few words of thanks for this great kindness, and for what I feel to be a great honor. I regret very much that the evening is to be a very short one for me, although a memorable one. I have had a very busy day. After a performance of three hours and a quarter in "Cyrano de Bergerac," in a few minutes I must go back for another three hours and a quarter. I can't tell you how much I shall take along with me, and if I had known that I should be expected to acknowledge this medal in formal fashion, I might have been able to tell you more fully something of what it would mean to me and something of what I hope it might mean to others. As I wrote to Mr. Lord, this gift is a great surprise to one who has never imagined rewards of this nature. I have struggled along for a good many years in the theater. I am twenty-three years old now on the stage. That seems a long time to have to wait for a gold medal, but at last it is here. Some day, I may be able to wear it on my chest in some rôle on some fitting occasion. You see, my theatric sense will not down. I cannot avoid being utilitarian. I see the possibility of this beautiful medal serving as a stage "prop." We actors are often in need of beautiful "props," and when I am in need, not only of the

"prop," but of inspiration and encouragement as well, I shall honor myself again by presenting myself this same gold medal, and so revive memories of this happy moment.

The theater to-day, if I may digress a little, is, as we all hear, in a very bad condition. I suppose the theater is always in a bad condition, always has been in a bad condition. On the authority of Shakespeare, it is said to be the mirror of the times. Be that as it may, I think we can all unite in feeling that at this particular time in the history of the world, everything that has its roots in the old ideals is somewhat shaken, is somewhat on the defensive, and that it will take the unselfish labor and direction of those who really cherish the age-old and never-changing ideals to bring them through to this new age and to manifest them perhaps in new guises in the different departments of human endeavor. I was born on the stage in a Shakespearean company on the other side. I have always cherished the hope of the Shakespearean theater, for the true theater of romance. I believe there is a very large and an increasing public liking for the true poetry of life. After all, the poetry of life is perhaps the realest thing of life. Consequently, it has been a great privilege for me, despite the difficulties, to try to do something to bring this theater to a new birth here at home.

Lastly, in acknowledging this honor, I would like to say that a great deal of it is due to other people who have done so much to assist me, to make my work possible. In the theater we have a great many coöperatives. Plays are not carried through to success by one person. I can assure you, in the work I have been doing, that I have had the greatest assistance from many co-workers, and I feel that a great deal of the honor of this occasion should go to them.

# NEWELL DWIGHT HILLIS

## THE PULPIT IN MODERN LIFE

Oration by Dr. Newell Dwight Hillis, preacher and author, minister of Plymouth Church, Brooklyn, N. Y., from 1899 to 1924 (born in Magnolia, Iowa, September 2, 1858; died, 1929), delivered before the University of Chicago, January 4, 1899. His tribute to John Ruskin is printed in Volume IX.

HAVING lingered long in foreign climes and countries, Plutarch returned home to affirm that he had found cities without walls, without literature, without coin or kings; peoples who knew not the forum, the theater, or gymnasium; "but," added the traveler, "there never was, nor shall there ever be, a city without temple, church, or chapel." Since Plutarch's time many centuries have come and gone, yet for thoughtful men the passing years have only strengthened the conviction that not until cities are hung in the air instead of founded upon rock, can the ideal commonwealth be established or maintained without foundations of morals and religion. Were it possible for the ancient traveler to come forth from his tomb, and, moving slowly down the aisles of time, to step foot into the scene and city midst which we now do dwell, he would find, in the influence of religious teachers upon liberty, literature, art, and industry, what would fully justify the reassertion of the conviction expressed so many centuries ago. Indeed, many students of the rise and reign of the common people make the history of social progress to be very largely the history of those teachers who have lifted up before men Christian ideals and principles, as beacon lights for the human race.

In our own land, speaking of the pleas for patriotism and liberty that were heard in the pulpits of New England just be-

fore the Revolution, Emerson said the Puritan pulpits were "the springs of American liberty." While in the realm of education, Horace Mann notes the fact that one pastor in New Hampshire trained one hundred men for the learned professions, and another country pastor one hundred and fifty students, including Ezekiel and Daniel Webster.

Great, indeed, has been the influence of war, politics, commerce, law, science, government; yet we must also confess that the pulpit has been one of the great forces in social progress. Be the reasons what they may, the prophets of yesterday are still the social leaders of to-day. To-morrow Moses will reënter his pulpit, and pronounce judgment, and control verdicts in every court of this city. To-morrow, as Germans, we will utter the speech that Luther fashioned for us, or as Saxons use the idioms that Wycliffe and Bunyan taught our fathers. To-morrow the groom and bride will set up their altars, and, kindling the sacred fires of affection, they will found their home upon Paul's principle, "The greatest of these is love." To-morrow the citizen will exercise his privilege of free thought and speech, and recall Guizot's words, "Democracy crossed over into Europe in the little boat that brought Paul." To-morrow educators will reread the Sermon on the Mount and seek to make rich the schools for the little ones who bear God's image. To-morrow we shall find that the great arts that enrich us were themselves made rich by teachers of the Christian religion. For great thoughts made great thinkers. Eloquent orators do not discuss petty themes. The woes of India lent eloquence. Paradise lent beauty to Dante, and strength to Milton. The Madonna lent loveliness to the brush of Raphael. It was the majesty of him "whom the heaven of heavens could not contain" that lent sublimity to the Cathedral of Angelo and Bramante.

Christ's idea of immortality lent sweetness to Handel, and victory to his oratorio. It was the golden rule, also, that shotted the cannons of freedom against the citadel of slavery and servitude. "The economic and political struggles of modern society," says the great English economist, "are in the last analysis religious struggles—their sole solution, the life and teachings of Jesus Christ set forth through the human voice."

In his celebrated argument in the Girard College case, Daniel Webster reviewed the upward progress of society, and asked this question: "Where have the life-giving waters of civilization ever sprung up, save in the track of the Christian ministry?" Having expressed the hope that American scholars had done something for the honor of literature abroad; that our courts of justice had, to a little degree, exalted the law; that the orations in Congress had tended to extend and secure the charter of human rights, the great statesman added these words: "But I contend that no literary efforts, no adjudications, no constitutional discussions, nothing that has ever been done or said in favor of the great interests of universal man, has done this country more credit at home and abroad than our body of clergymen." Weightier or more unqualified testimony was never pronounced. Whatever the future may hold for the pulpit, the past, at least, is secure!

Having affirmed the influence of the pulpit in early and ignorant eras, some writers now declare the pulpit has entered upon a decline, and predict its final decay. In this age of books and papers, men question the need of moral instruction through the voice. Let us confess that never before have the instruments for happiness been so numerous or so accessible. The modern devices for increasing knowledge are now so artful and insistent, the very atmosphere of life is so charged with information, as almost to compel wisdom in the intelligent, and forbid illiteracy in the stupid. For the training of reason, the printing-presses toil day and night. For the training of the practical sense, science has increased books and stuffed the shelves with knowledge.

For the training of taste and imagination, the artist, printer, and photographer have united for multiplying pictures, until without expense or travel the youth can behold the faces of earth's greatest men, visit distant cities and historic civilization. Never before have the educators done so much for child life and culture. As soon as the babe can walk, the kindergarten stands forth to allure the little feet into the temple of knowledge. For youth also the public schools have become so powerful and so rich that private schools find it difficult to live under their eaves. New forms of education also are develop-

ing. There are schools that train the hand to use the tool, train the arm toward self-support, fit the boy for business in the office or store, lend skill in laying the foundations of the bridge, or spanning the truss over some building. Technical schools have arisen, teaching the use and control of the electric forces, the extraction of iron from crude ores, the changing of poisons into balms and remedies, the extraction of oils and medicines from refuse of coal and wood. Commerce and trade, too, have become so complex that their mastery involves a liberal education.

The youth who has sharp eyes and a hungry mind can now have culture without college. He who handles cotton goods or silk or wool, and traces the rich texture back to the looms that wove hemp, ponders the mechanical devices that embroidered faces and flowers upon the silk, studies the dyes by which the white wool has become crimson or black, will find that each step lends knowledge. In all ages, life has been a university, and events have been teachers, but never before to the same degree as to-day. Indeed, the youth who in the morning goes forth to his task and walking along watches the method by which the streets are paved, the devices for lighting and draining them, the means by which the taxes are raised and streets paid for; who enters the street-car to journey backward in thought and note how the rude ox-cart has become the palace car; who enters the market-place and the forum, to buy and sell and master the devices of production and distribution, will find that knowledge comes streaming in from every side. And to all these indirect instruments of culture must be added the new inventions called "culture clubs." Recently a traveler in Scotland, standing upon a mountain cliff overlooking the sea, found himself in great danger. It seems that the gardener desired to beautify even the steep cliffs and precipices. Loading his double-barreled shotgun with seeds of flowers and vines, he fired the seeds up into the crevices of the rocks. Now otherwise, for men and women who have a few moments for rest between the hours, has life become dangerous. To-day, one can scarcely turn round the street corner without running into the president of some new culture club, who straightway empties into the victim two volleys of talk about some wisdom,

old or new. The old shotgun is less dangerous than the new club.

Nor must it be forgotten that practical life itself is a university. The use of fire and wind and water; the avoidance of stones and animals and poisons; the mastery of the body, so as to maintain perfect health and high-pressure brain action without nerve-injury; the development of skill in carrying one's faculties through the home, the store, and the street; the gaining of one's livelihood—all these are instruments divinely ordained for the culture of the mind, and for the increase of knowledge and wisdom. And in this age, when ignorance is a luxury that only idiots can afford, and knowledge is universal, many have come to feel that the pulpit is a waning force. It is said that the teaching function has been superseded by the press, by books, and magazines; that the ethical ideas of Christ are now so fully developed as to be organized into institutions, becoming automatic, and therefore no longer needing a special voice for their enunciation. John said of heaven, "There shall be no temple there," nor shall any teacher need to say, Know the Lord, for all shall know him. And many have risen up to-day who assert that the pulpit of yesterday has made unnecessary the pulpit of to-morrow; that Christianity has now been organized into our social, domestic, economic, and political institutions, thereby becoming self-publishing. Those kind-hearted persons who once wept lest the loom and the engine should destroy the working people are now engaged in shedding a few tears over the pulpit, soon to be sadly injured by the press, the magazines, and books.

Thoughtful men are not troubled lest some agency arise to dispossess the pulpit. In the last analysis, preaching is simply an extension of that universal function called conversation. It represents an attempt so to bring the truth to bear upon conduct and character as to cleanse the reason, sweeten the affections, and lend inspiration to imagination; so as to strengthen conscience and refine the moral sentiment. The foundation of all moral instruction is in the family, where children are influenced, not by attractions, but by the truth manifest in the voice of the father and the mother, who create an atmosphere about the child. Socrates came speaking, as did Plato and Paul, as

did the world's Savior; and, so long as man remains man, preaching will remain, not as a luxury, but as the necessity of man's existence. So far from books doing away with the influence of the voice, they seem rather to increase it. In ages when there were no books, men sat silent in the cell or were dumb by the hearthstone.

Should Plato reappear to-morrow in some hall, he need not fear lest the books have dispossessed him of his mission. A book is simply the mummy of a soul. A library is a graveyard where intellects are confined. A printed page catches and holds the passing thought and mood. Strawberries in June quickly pass, and housewives preserve them until winter. Thus books are preserved souls. Through his works Schopenhauer has pickled himself in salt brine, just as "The Autocrat of the Breakfast Table" is Holmes preserved in the sweetness of sugar. The photographer makes a copy of Juliet, but pictures will never lead Romeo to resign the sweet girl. When books on the bringing up of children make mothers unnecessary, then the press will begin to interfere with the moral teachers. It is indeed given to the printed page to teach the truth regarding axioms, or the nature of solids and fluids, but even then the laboratory strengthens the book. But, so far as moral truth is concerned, the truth is never the full truth until it is organized into personality, and flashes in the eye or thrills in the voice, or glows in the reason, or guides through sound judgment. And so long as life is full of strife and conflict, so long as men are the children of misfortune, adversity, and defeat; so long as troubles roll over the earth like sheeted storms; so long as dark minds need light and inspiration, and the pilgrim band, floundering through the wilderness, needs a leader, and a pillar of cloud by day and a pillar of fire by night, will religion remain the guide, the hope, the friend, and support of the people.

Preaching is man-making, man-mending, and character-building. On the one side it is a science—the science of the development of all the powers, animal, mental, moral, and social; the subordination of the lower impulses to the higher faculties, the symmetry and harmonization of all. The genius of preaching is truth in personality. Mighty is the written

word of God, but the word never conquered until it was "made flesh." Truth in the book is crippled. Truth in the intellectual system is a skeleton. Truth in personality is life and power. Always the printed philosophy is less than the speaking philosopher. Wallace and Bruce had their power over the clansmen, not by written orders, but by riding at the head of the host. By the torch of burning speech Peter and Bernard kindled the ardor of crusaders. When to Luther's thought was added Luther's personality, Germany was freed. Savonarola's arguments were brought together in a solid chain of logic, but it has been said that his flaming heart made the chain of logic to be "chain lightning." The printed truth cuts with a sharp edge, the spoken truth burns as well as cuts. Men have indeed been redeemed by the truth in black ink on white paper, but the truth quadruples its force when it is bound up in nerves, muscles, and sinews. The soul may be taught by travel, books, friends, occupation. Yet these truths stand in the outer court of the soul. It is not given to them to enter into the secret holy of holies, where the hidden life doth dwell. Preaching is plying men with the eternal principles of duty and destiny, so as to give warmth to the frigid, wings to the dull and low-flying, clarity to reason, accuracy to moral judgment, force to aspiration, and freedom to faith. Truth is the arrow, but speech is the bow that sends it home.

The nature and functions of preaching grow out of the divine method of education and growth for men. God governs rocks by gravity, bees by instinct, trees by those grooves called natural laws. Man governs his locomotive by two rails, and the flanges upon the side of the wheel. But man, made in God's image, is the child of liberty, and God governs the pilgrim host through moral teachers, into whose minds great truths are dropped from heaven, and these men are sent on before the advancing multitude, to lead them away from the slough, to guide them out of the wilderness, and open up some spring in the desert. It is possible to enrich dead things from the outside. Soft wood may be veneered with mahogany, nickel may be coated with silver, and silver-plated with gold, but living things must be developed from the inside. Would the gardener have a rich flush upon the rose? Let him feed the roots. Would

the mother have the bloom of beauty upon the cheek of the child? Let her feed the babe with good food, and the pure blood on the inside will lend the rosy tint to the cheek on the outside. Men cannot be made wise or strong or moral by exterior laws or agencies. There are two ways to help a thriftless man. One is to build him a house and place him therein. The other is to inspire in him the sense of industry, economy, and ambition, and then he will build his own house. All tools, books, pictures, laws, on the outside, begin with ideas on the inside. Inspire the reason, and man will fill the library with books. Wake up the taste and imagination in young men, and they will fill the galleries with pictures. Stir the springs of justice, and men will go forth to cleanse iniquities and right wrongs. Quicken the inventive faculty, and men will create tools and machines. It is as useless to seek to make men good or wise by law as to adorn leafless trees by tying wax flowers to bare branches. The time was when men talked about being clothed with righteousness and character, as if God were a wholesale goods merchant, and kept great bales of integrity, and cut off a new suit for each poor sinner. But righteousness and character are not made for men on the outside. Love, joy, justice represent something done with man on the inside. Our politicians talk about over-production. In reality our industrial troubles are based upon under-hunger. If we could open up a hundred mouths in each living man, the cry of over-production would cease. The slave had only three mouths. He wanted a loaf, a cotton garment, a little tobacco. Therefore he bought little, manufacturing languished, and the slave State became poor.

But as the free laborer became educated, he wanted variety in foods, variety in clothes, wanted books, pictures, comforts, conveniences, and he bought widely, and all the Northern factories were busy day and night to supply his hundredfold hunger. Could we by sudden fiat of education open up a score of new wants and hungers through the quickening of the soul within, the spiritual awakening would appear in a thousand forms of industry and occupation. The great spiritual principles of Jesus Christ are the most powerful stimulants to material civilization that the world has ever seen. It is said that Shake-

spere's poetry brings thousands of visitors to Stratford every year. His poetry indirectly has created more wealth for the people of Stratford than any of the factories or looms in that thriving city. It is still an open question whether Wycliffe with his translation of the Scriptures has not done as much for the commerce of England as did Watt when he invented the tools that Wycliffe had first made necessary. Shaftesbury once said that Charles Spurgeon, without discussing problems of government, had done more for social reform and progress than any statesman of his era.

In former ages and generations doubtless men have needed to come in from the field and factory, store and street, and, coming together in one spot, have sought to cleanse the grime from their garments, to sharpen the spiritual faculties, to cast out selfishness, to test the deeds of life by Christ's principles, just as an artist, when his eye is jaded, tests the blue tint by the sapphire, or the red by the ruby. But in these days many believe that church-going is no longer obligatory; that sermons have lost their juice and freshness, and having gone to church once in a month, they feel that they have placed the Almighty under everlasting obligations. Gone now a certain sanctity of the Sabbath, a certain reverence for the church, a certain refinement of conscience, a certain clarity and purity of moral judgment. Gone, also, the old era when the beggar was unknown in the little Christian community, when children and youth grew up without ever having beheld a drunkard, a thief, or a murderer, and when the door of the house or the granary had no lock or bar. Now one-half of the community never crosses the threshold of a church, either Catholic or Protestant. Multitudes, also, decline the moral obligations, and there has come a time when the poorhouse overflows, when the jails are full, when judges must work day and night to overtake the criminals.

Well has a great editor just said that this republic needs tools and culture less than it needs a revival of the moral imperative. From the viewpoint of the publicist, this writer expresses the wish that for a long time this nation might have two Sundays a week, for toning up its jaded moral sense. A great multitude of our people have laid the Ten Commandments on

the table by a two-thirds majority. Indeed, they seem to have written and revised the old commandments so that they now read: Thou shalt have gods of self and ease and pleasure before me; thou shalt worship thine own imaginations as to the houses and goods and business, and bow down and serve them; thou shalt remember the Sabbath day to see to it that all its hours are given to sloth and lounging and stuffing the body with rich foods, leaving the children of sorrow and ignorance to perish in their sodden misfortune; thou shalt kill and slay men by doing as little as possible thyself, and squeezing as much as possible out of others. Thou shalt look upon loveliness in womanhood to soil it with impurity. Thou shalt steal daily, the employer from the servant, and the servant from his employer, and the devil take the hindmost. Thou shalt get thy livelihood by weaving a great web of falsehoods and sheathing thyself in lies. Thou shalt covet thy neighbor's house to possess it for thyself; thou shalt covet his office and his farm, his goods and his fame, and everything that is his. And to crown all these laws, the devil has added a new commandment—Thou shalt hate thy brother as thou dost hate thyself.

Into this piteous lot have multitudes come. And there is restlessness in the heart, unhappiness in the home, hate in the task, anarchy in the street, whose end is chaos, destruction, and death. Plato has a pre-Christian statement as to the function of preaching, and its relation to social happiness and progress. "The things that destroy us are injustice, insolence, and foolish thoughts; and the things that save us are justice, self-command, and true thought, which things dwell in the living powers of God. Wherefore our battle is immortal. The angels and God fight with us as teachers, and we are their possessions."

In his Yale address ex-President White lamented that young men were turning from the learned professions to enter trade and commerce. Materialism, he thought, was an evil spirit that had given its cup of sorcery to youth, and beguiled them from the paths of noble scholarship and the intellectual life. Gone the poets Longfellow, Lowell, Bryant, Whittier. Gone the historians Bancroft, Motley, Prescott. Gone the great orators and statesmen. Gone also the era when young men like Channing and Starr King, Swing and Beecher, and Brooks,

entered the ministry. And, remembering that in New England the clergymen have founded the academies and colleges, and that in scores of families like the Emersons there had been seven generations of clergymen who had wrought in the pulpit, the lecture-hall, or taken up the pen of author or editor, the great educator predicted disaster would befall our eager American society. But not the emoluments of commerce alone explain the drift of young men away from the ministry. The ministry is not an easy life. No profession makes demands so numerous or so stern upon nerve and brain, upon mind and heart. In former times, when books were scarce, religious newspapers unknown, and knowledge was not universal, preaching was not a difficult task, and it was easily possible for a clergyman to preach a sermon three hours long in the morning and repeat it at night without the congregation recognizing it. Now all the hearers have books and libraries, and the pew of to-day is wiser than the pulpit of yesterday. The time has come when the preacher must be a universal scholar. He must make himself an expert in social reform; master the facts as to illiteracy, vice, and crime, study the tenement-house question; all social movements in connection with settlements and methods of Christian work. He must carry his studies into physiology and hygiene to note how low and abnormal physical conditions affect the conscience and the spiritual state.

Giving up the theological reading with which the clergymen of a former generation have made the people acquainted, he must study history, politics, the rise of law, and free institutions, the movements of art, the history of philosophy, and, above all else, no fact in connection with science must be permitted to escape his notice. For his illustrations he must draw from the science of stars and stones and animals and plants. To keep step with his work he must read each month some review that deals with the general plans, like *The Forum* or *The North American Review*, the review upon finance, upon reform, upon labor, upon education, upon his own special problems, not forgetting the foreign quarterlies and magazines. In addition to all this, there will be at least a hundred volumes each year that he must go through thoroughly, if possible, or hurriedly, if crowded. There are also public duties and de-

mands. To-day he enters a home in which some woman with little children clinging to her dress and crying bitterly stands beside a young father, now dying. He returns home to find some youth, the child of poverty and orphanage, but of genius also, who needs help and assistance. When evening falls, there comes the intellectual stress and task, with a thousand duties for which preparation must be made.

Immeasurable the demands upon nerve and brain. Now and then one arises who is called to the ministry by his distant ancestors, whose father loved moral themes, and had a vision and the outlook upon the realm invisible, whose mother had enthusiasm, imagination, and moral sentiment—gateways, these, through which God's angels come trooping—and father and mother, through heredity, call the child to the ministry. For such a one teaching is automatic and preaching is instinctive, and the work itself is medicinal and recuperative. But even upon these men like Robertson and Channing and Bushnell, the mere strain of delivery is such as to send them home from the pulpit in the state of nervous collapse from which they do not recover until Tuesday or Wednesday. With many the recoil dismounts the cannon. In these days no man would be equal to the difficulties of the ministry were it not the happiest of the professions, bringing its own rewards, carrying medicine to cure its exhaustions.

No other occupation or profession offers such liberty and personal freedom. The politician is a thread caught in the texture of his party and has little freedom. The merchant must buy and sell what the people want, and must serve them. The lawyer must move in the groove digged by the mistake or sin of his client, while the clergyman is freely permitted to teach the great eternal principles of God, and he steers by the stars. Great is the power of the press. But the press writer has no personal contact with the reader; must report things evil often as well as good. Great is the power of the law. But law is litigious, and the jurist must struggle oftentimes for weeks or months to settle some quarrel or correct some injustice, dealing, as Webster said, with negatives oftentimes. Great is the power of the physician. But unfortunately, in influencing his patient, his personality must first of all work upon an ab-

normal condition, and when the patient is restored to health and ready to receive the physician's personality, his task is done. But this advantage inheres in the ministry. It emphasizes the great positive moralities, it handles the most powerful stimulants the world has ever known—eternal truths. It plies men with divine inspirations. It deals with the greatest themes life holds—God, Christ, conscience, reason, sin, salvation, culture, character, duty, immortal destiny. When all other arts have been secured, it teaches the art of right living. When all other sciences have been mastered, it teaches the science of conduct at home, in the market, and the forum. It puts its stamp, not into wood that will rot, not into iron that will rust, not into colors that will fade, but into the minds and hearts that are immortal. Multiply the honors and emoluments of the other occupations one hundredfold, and they need them all to compensate for the happiness and opportunity of the Christian ministry.

Well did John Ruskin say that the issues of life and death for modern society are in the pulpit. "Precious indeed those thirty minutes by which the teacher tries to get at the separate hearts of a thousand men to convince them of all their weaknesses, to shame them for all their sin, to warn them of all their dangers, to try by this way and that to stir the hard fastenings of the doors where the Master himself has stood and knocked yet none opened, and to call at the openings of those dark streets where Wisdom herself hath stretched forth her hands and no man regarded. Thirty minutes to raise the dead in." And he who hath known the joy of encouraging some noble youth who is discouraged; the rapture that comes when one who hath been long snared and held in the cruel trap hath been freed; the joy of feeling that blind eyes have come to see things unseen and deaf ears to hear notes that once were unheard; or hath swung wide some dungeon door to lead forth some prisoner of conscience, will know that there is no profession that conceals such hidden springs, receives such hidden messages, is fed with such buoyancy and happiness as the ministry—the Christian teacher, who brings divine truth to men for God's sake and for man's sake.

# OLIVER WENDELL HOLMES

## PRACTICAL ETHICS OF THE PHYSICIAN

Address by Dr. O. W. Holmes, poet, essayist, novelist, Parkman Professor of Anatomy in Harvard University, 1874-1882 (born in Cambridge, Mass., August 29, 1809; died in Boston, October 7, 1894), delivered in Boston, to the medical graduates of Harvard University, at the annual commencement, March 10, 1858. Another speech by Dr. Holmes is given in Volume II.

GENTLEMEN OF THE GRADUATING CLASS:—It is my grateful duty to address you a few words in the name of the Medical Faculty, under the auspices of which you have just entered the Medical Profession. In their name I welcome you to the labors, the obligations, the honors, and the rewards which, if you are faithful, you may look for in your chosen calling. In their name I offer you the hand of fellowship, and call you henceforth brothers. These elder brethren of the same great family repeat to you the words of welcome. The wide community of practitioners receive you in full communion from this moment. You are enrolled hereafter on that long list of the Healers of men, which stretches back unbroken to the days of Heroes and Demigods, until its earliest traditions blend with the story of the brightest of the ancient Divinities.

Once *Medicinæ Doctor*, always *Doctor Medicinæ*. You can unfrock a clergyman and unwed a husband, but you can never put off the title you have just won. Trusting that you will always cling to it, as it will cling to you, I shall venture to offer a few hints which you may find of use in your professional career.

The first counsel I would offer is this: Form a distinct plan for life, including duties to fulfil, virtues to practice, powers to develop, knowledge to attain, graces to acquire. Circumstances may change your plan, experience may show that it

requires modification, but start with it as complete as if the performance were sure to be the exact copy of the program. If you reject this first piece of advice, I am afraid nothing else I can say will be of service. Some weakness of mind or of moral purpose can alone account for your trusting to impulse and circumstances. Nothing else goes on well without a plan; neither a game of chess, nor a campaign, nor a manufacturing or commercial enterprise, and do you think that you can play this game of life, that you can fight this desperate battle, that you can organize this mighty enterprise, without sitting down to count the cost and fix the principles of action by which you are to be governed?

It is not likely that any of you will deliberately lay down a course of action pointing to a low end, to be reached by ignoble means. But keep a few noble models before you. For faithful lifelong study of science you will find no better example than John Hunter, never satisfied until he had the pericardium of Nature open, and her heart throbbing naked in his hand. For calm, large, illuminated, philosophical intellect, hallowed by every exalted trait of character, you will look in vain for a more perfect pattern than Haller. But ask your seniors who is their living model, and if they all give you the same name, then ask them why he is thus honored, and their answers will go far toward furnishing the outline of that course I would hope you may lay down and follow.

Let us look, in the very brief space at our disposal, at some of those larger and lesser rules which might be supposed to enter as elements into the plan of a physician's life.

Duty draws the great circle which includes all else within it. Of your responsibility to the Head Physician of this vast planetary ambulance or traveling hospital which we call Earth, I need say little. We reach the Creator chiefly through his creatures. Whoso gave the cup of cold water to the disciple gave it to the Master; whoso received that Master received the Infinite Father who sent him. If performed in the right spirit, there is no higher worship than the unpurchased service of the medical priesthood. The sick man's faltered blessing reaches heaven through the battered roof of his hovel before the *Te Deum* that reverberates in vast cathedrals.

Your duty as physician involves the practice of every virtue and the shunning of every vice. But there are certain virtues and graces of preëminent necessity to the physician, and certain vices and minor faults against which he must be particularly guarded.

And first, of *truth*. Lying is the greatest temptation to which physicians are exposed. Clergymen are expected to tell such portions of truth as they think will be useful. Their danger is the *suppressio veri*, rather than direct falsehood. Lawyers stand in professional and technical relations to veracity. Thus, the clerk swears a witness to tell the truth, the whole truth, and nothing but the truth. The lawyer is expected to get out of the witness not exactly the truth, but a portion of the truth, and nothing but the truth—which suits him. The fact that there are two lawyers pulling at the witness in different directions makes it little better; the horses pulled different ways in that horrid old punishment of tearing men to pieces; so much the worse for the man. But this is an understood thing, and we do not hesitate to believe a lawyer—outside of the courtroom.

The physician, however, is not provided with a special license to say the thing which is not. He is expected to know the truth, and to be ready to tell it. Yet nothing is harder than for him always to do it. Whenever he makes an unnecessary visit, he tells a lie. Whenever he writes an unnecessary prescription, he tells a lie. It is audibly whispered that some of the "general practitioners," as they are called in England, who make their profit on the medicines they dispense, are apt to be too fond of giving those which can be charged at a pleasing figure in their accounts. It would be better if the patient were allowed a certain discount from his bill for every dose he took, just as children are compensated by their parents for swallowing hideous medicinal mixtures.

All false pretenses whatsoever, acted or spoken; all superficial diagnoses, where the practitioner does not know that he knows, or, still worse, knows that he does not know; all unwarranted prognoses and promises of cure; all claiming for treatment that which may have been owing to Nature only; all shallow excuses for the results of bad practice, are lies and nothing else.

There is one safe rule which I will venture to lay down for your guide in every professional act involving the immediate relation with the object of your care; so plain that it may be sneered at as a truism, but so difficult to follow that he who has never broken it deserves canonizing better than many saints in the calendar: A physician's first duty is to his patient; his second only, to himself.

All quackery reverses this principle as its fundamental axiom. Every practitioner who reverses it is a quack. A man who follows it may be ignorant, but his ignorance will sometimes be safer than a selfish man's knowledge.

You will find that this principle will not only keep you in the great highway of truth, but that if it is ever a question whether you must leave that broad path, it will serve you as a guide. A lie is a deadly poison. You have no right to give it in large or small doses for any selfish purpose connected with your profession, any more than for other selfish objects. But as you administer arsenic or strychnia in certain cases, without blame; nay, as it may be your duty to give them to a patient; are there not also cases in which the moral poison of deceit is rightly employed for a patient's welfare? So many noble-hearted and conscientious persons have scruples about any infraction of the absolute rule of truth, that I am willing briefly to discuss and illustrate a question which will often be presented to you hereafter.

Truth in the abstract is perhaps made too much of as compared to certain other laws established by as high authority. If the Creator made the tree-toad so like the moss-covered bark to which it clings, and the larva of a sphinx so like the elm-leaf on which it lives, and that other larva so exquisitely like a broken twig, not only in color, but in the angle at which it stands from the branch to which it holds, with the obvious end of deceiving their natural enemies, are not these examples which man may follow? The Tibboo, when he sees his enemy in the distance, shrinks into a motionless heap, trusting that he may be taken for a lump of black basalt, such as is frequently met with in his native desert. The Australian, following the same instinct, crouches in such form that he may be taken for one of the burnt stumps common in his forest region.

Are they not right in deceiving, or lying, to save their lives? or would a Christian missionary forbid their saving them by such a trick? If an English lady were chased by a gang of murdering and worse than murdering Sepoys, would she not have a right to cheat their pursuit by covering herself with leaves, so as to be taken for a heap of them? If you were starving on a wreck, would you die of hunger rather than cheat a fish out of the water by an artificial bait? If a schoolhouse were on fire, would you get the children quietly down stairs under any convenient pretense, or tell them the precise truth, and so have a rush and a score or two of them crushed to death in five minutes?

These extreme cases test the question of the absolute inviolability of truth. It seems to me that no one virtue can be allowed to exclude all others, with which in this mortal state it may sometimes stand in opposition. Absolute justice must be tempered by mercy; absolute truth by the law of self-preservation, by the harmless deceits of courtesy, by the excursions of the imaginative faculty, by the exigencies of human frailty, which cannot always bear the truth in health, still more in disease.

Truth is the breath of life to human society. It is the food of the immortal spirit. Yet a single word of it may kill a man as suddenly as a drop of prussic acid. An old gentleman was sitting at table when the news that Napoleon had returned from Elba was told him. He started up, repeated a line from a French play, which may be thus Englished:—

The fatal secret is at length revealed,

and fell senseless in apoplexy. You remember the story of the old man who expired on hearing that his sons were crowned at the Olympic games. A worthy inhabitant of a village in New Hampshire fell dead on hearing that he was chosen town clerk.

I think the physician may, in extreme cases, deal with truth as he does with food, for the sake of his patient's welfare or existence. He may partly or wholly withhold it, or, under certain circumstances, medicate it with the deadly poison of

honest fraud. He must often look the cheerfulness he cannot feel, and encourage the hope he cannot confidently share. He must sometimes conceal and sometimes disguise a truth which it would be perilous or fatal to speak out.

I will tell you two stories to fix these remarks in your memory. When I was a boy, a grim old doctor in a neighboring town was struck down and crushed by a loaded sledge. He got up, staggered a few paces, fell and died. He had been in attendance upon an ancient lady, a connection of my own, who at that moment was lying in a most critical condition. The news of the accident reached her, but not its fatal character. Presently the minister of the parish came in, and a brief conversation like this followed.—Is the Doctor badly hurt?—Yes, badly.—Does he suffer much?—He does not; he is easy.—And so the old gentlewoman blessed God and went off to sleep; to learn the whole story at a fitter and safer moment. I know the minister was a man of truth, and I think he showed himself in this instance a man of wisdom.

Of the great caution with which truth must often be handled, I cannot give you a better illustration than the following from my own experience. A young man, accompanied by his young wife, came from a distant place, and sent for me to see him at his hotel. He wanted his chest examined, he told me.—Did he wish to be informed of what I might discover?—He did.—I made the *ante-mortem* autopsy desired. Tubercles; cavities; disease in full blast; death waiting at the door. I did not say this, of course, but waited for his question.—Are there any tubercles?—he asked presently. Yes, there are.—There was silence for a brief space, and then, like Esau, he lifted up his voice and wept; he cried with a great and exceeding bitter cry, and then the twain, husband and wife, with loud ululation and passionate wringing of hands, shrieked in wild chorus like the *keeners* of an Irish funeral, and would not be soothed or comforted. The fool! He had brought a letter from his physician, warning me not to give an opinion to the patient himself, but to write it to him, the medical adviser, and this letter the *patient had kept back*; determined to have my opinion from my own lips, not doubting that it would be favorable. In six weeks he was dead, and I never questioned that his own folly,

and my telling him the naked truth killed him before his time.

If the physician, then, is ever authorized to tamper with truth, for the good of those whose lives are entrusted to him, you see how his moral sense may become endangered. Plain speaking, with plenty of discreet silence, is the rule; but read the story of the wife of Cæcinna Pætus, with her sick husband and dead child, in the letters of Pliny the Younger (Lib. III, XVI), and that of good King David's faithful wife Michal, how she cheated Saul's cutthroats (I Samuel, XIX, 13), before you proclaim that homicide is always better than *vericide*.

If you can avoid this most easily besetting sin of falsehood, to which your profession offers such peculiar temptations, and for which it affords such facilities, I can hardly fear that the closely related virtues which cling to truth, honesty and fidelity to those who trust you, will be wanting to your character.

That you must be temperate, so that you can be masters of your faculties at all times; that you must be pure, so that you shall pass the sacred barriers of the family circle, open to you as to none other of all the outside world, without polluting its sanctuary by your presence, it is, I think, needless for me to urge.

Charity is the eminent virtue of the medical profession. Show me the garret or the cellar which its messengers do not penetrate; tell me of the pestilence which its heroes have not braved in their errands of mercy; name to me the young practitioner who is not ready to be the servant of servants in the cause of humanity, or the old one whose counsel is not ready for him in his perplexities, and I will expatiate upon the claims of a virtue which I am content to leave you to learn from those who have gone before you, and whose footprints you will find in the path to every haunt of stricken humanity.

But there are lesser virtues, with their corresponding failings, which will bear a few words of counsel.

First, then, of that honorable reserve with reference to the history of his patients, which should belong to every practitioner. No high-minded or even well-bred man can ever forget it; yet men who might be supposed both high-minded and well-bred have been known habitually to violate its sacred law. As a breach of trust, it demands the sternest sentence which can

be pronounced on the offense of a faithless agent. As a mark of vanity and egotism, there is nothing more characteristic than to be always babbling about one's patients, and nothing brings a man an ampler return of contempt among his fellows. But as this kind of talk is often intended to prove a man's respectability by showing that he attends rich and great people, and this implies that a medical man needs some contact of the kind to give him position, it breaks the net rule I shall give you, and you must be stigmatized as *lèse-majesté* toward the Divine Art of Healing.

This next rule I proclaim in no hesitating accents: *Respect your own profession!* If Sir Astley Cooper was ever called to let off the impure ichor from the bloated limbs of George the Fourth, it was the King that was honored by the visit, and not the Surgeon. If you do not feel as you cross the millionaire's threshold that your Art is nobler than his palace, the footman that lets you in is your fitting companion, and not his master. Respect your profession, and you will not chatter about your "patrons," thinking to gild yourselves by rubbing against wealth and splendor. Be a little proud—it will not hurt you; and remember that it depends on how the profession bears itself whether its members are the peers of the highest, or the barely tolerated operatives of society, like those Egyptian dissectors, hired to use their ignoble implements, and then chased from the house where they had exercised their craft, followed by curses and volleys of stones. The Father of your Art treated with a Monarch as his equal. But the Barber-Surgeons' Hall is still standing in London. You may hold yourselves fit for the palaces of princes, or you may creep back to the Hall of the Barber-Surgeons, just as you like.

Richard Wiseman, who believed that a rotten old king, with the *corona Veneris* encircling his forehead with its copper diadem, could cure scrofula by laying his finger on its subject—Richard Wiseman, one of the lights of the profession in his time, spoke about giving his patients over to his "servants" to be dressed after an operation. We do not count the young physician or the medical student as of menial condition, though in the noble humility of science to which all things are clean, or of that "entire affection" which, as Spenser tells us, "hateth

nicer hands," they stoop to offices which the white-gloved waiter would shrink from performing. It is not here, certainly, where John Brooks—not without urgent solicitation from the lips which still retain their impassioned energy—was taken from his quiet country rides, to hold the helm of our Imperial State; not here, where Joseph Warren left the bedside of his patients to fall on the smoking breastwork of yonder summit, dragging with him, as he fell, the curtain that hung before the grandest drama ever acted on the stage of time—not *here* that the healer of men is to be looked down upon from any pedestal of power or opulence!

If you respect your profession as you ought, you will respect all honorable practitioners in this honored calling. And respecting them and yourselves, you will beware of all degrading jealousies and despise every unfair art which may promise to raise you at the expense of a rival. How hard it is not to undervalue those who are hotly competing with us for the prizes of life! In every great crisis our instincts are apt suddenly to rise upon us, and in these exciting struggles we are liable to be seized by that passion which led the fiery race-horse, in the height of a desperate contest, to catch his rival with his teeth as he passed, and hold him back from the goal by which a few strides would have borne him. But for the condemnation of this sin I must turn you over to the tenth commandment, which, in its last general clause, unquestionably contains this special rule for physicians—*Thou shalt not covet thy neighbor's patients.*

You can hardly cultivate any sturdy root of virtue but it will bear the leaves and flowers of some natural grace or other. If you are always fair to your professional brethren, you will almost of necessity encourage those habits of courtesy in your intercourse with them which are the breathing organs and the blossoms of the virtue from which they spring.

And now let me add various suggestions relating to matters of conduct which I cannot but think may influence your course, and contribute to your success and happiness. I will state them more or less concisely as they seem to require, but I shall utter them magisterially, for the place in which I stand allows me to speak with a certain authority.

Avoid all *habits* that tend to make you unwilling to go whenever you are wanted at any time. No over-feeding or drinking or narcotic must fasten a ball and chain to your ankle. *Semper paratus* is the only motto for a physician!

The necessity for *punctuality* is generally well understood by the profession in cities. In the country it is not unusual to observe a kind of testudineous torpor of motion, common to both man and beast, and which can hardly fail to reach the medical practitioner. Punctuality is so important, in consultations especially, to the patient as well as the practitioner, that nothing can excuse the want of it—not even having nothing to do—for the busiest people, as everybody knows, are the most punctual. There is another precept which I borrow from my wise friend and venerated instructor, the Emeritus Professor of Theory and Practice; and you may be very sure that he never laid down a rule he did not keep himself. Endeavor always to make your visit to a patient at the same regular time, when he expects you. You will save him a great deal of fretting, and occasionally prevent him sending for your rival when he has got tired of waiting for you.

Your conduct in the sick-room, in conversation with the patient or his friends, is a matter of very great importance to their welfare and to your own reputation. You remember the ancient surgical precept—*Tuto, cito, jucunde*. I will venture to write a parallel precept under it, for the manner in which a medical practitioner shall operate with his tongue; a much more dangerous instrument than the scapel or the bistoury. *Breviter, sauviter, caute*. Say not too much, speak it gently, and guard it cautiously. Always remember that words used before patients or their friends are like coppers given to children; you think little of them, but the children count them over and over, make all conceivable imaginary uses of them, and very likely change them into something or other which makes them sick, and causes you to be sent for to clean out the stomach you have so unwittingly filled with trash: a task not so easy as it was to give them the means of filling it.

The forming of a diagnosis, the utterance of a prognosis, and the laying down of a plan of treatment, all demand certain particular cautions. You must learn them by your mistakes, it

may be feared, but there are a few hints which you may not be the worse for hearing.

Sooner or later, everybody is tripped up in forming a diagnosis. I saw Velpeau tie one of the carotid arteries for a supposed aneurism, which was only a little harmless tumor, and kill his patient. Mr. Dease, of Dublin, was more fortunate in a case which he boldly declared an abscess, while others thought it an aneurism. He thrust a lancet into it and proved himself in the right. Soon after, he made a similar diagnosis. He thrust in his lancet as before, and out gushed the patient's blood and his life with it. The next morning Mr. Dease was found dead and floating in his own blood. He had divided the femoral artery. The same caution that the surgeon must exercise in his examination of external diseases, the physician must carry into all his physical explorations. If the one can be cheated by an external swelling, the other may be deceived by an internal disease. Be very careful; be very slow; be very modest in the presence of Nature. One special caution let me add. If you are ever so accurate in your physical explorations, do not rely too much upon your results. Given fifty men with a certain fixed amount of organic disease, twenty may die, twenty may linger indefinitely, and ten may never know they have anything the matter with them. I think you will pardon my saying that I have known something of the arts of direct exploration, though I wrote a youthful essay on them, which, of course, is liable to be considered a presumption to the contrary. I would not, therefore, undervalue them, but I will say that a diagnosis which maps out the physical condition ever so accurately, is, in a large proportion of cases, of less consequence than the opinion of a sensible man of experience, founded on the history of the disease, though he has never seen the patient.

And this leads me speak of prognosis and its fallacies. I have doomed people, and seen others doom them, over and over again, on the strength of physical signs, and they have lived in the most contumacious and scientifically unjustifiable manner as long as they liked, and some of them are living still. I see two men in the street, very often, who are both as good as dead in the opinion of all who saw them in their extremity.

People will insist on living, sometimes, though manifestly *moribund*. In Dr. Elder's life of Kane, you will find a case of this sort, told by Dr. Kane himself. The captain of a ship was dying of scurvy, but the crew mutinied, and he gave up dying for the present to take care of them. An old lady in this city, near her end, got a little vexed about a proposed change in her will; made up her mind not to die just then; ordered a coach; was driven twenty miles to the house of a relative, and lived four years longer. Cotton Mather tells some good stories which he picked up in his experience, or out of his books, showing the *unstable equilibrium* of prognosis. Simon Stone was shot in nine places, and as he lay for dead the Indians made two hacks with a hatchet to cut his head off. He got well, however, and was a lusty fellow in Cotton Mather's time. Jabez Musgrove was shot with a bullet that went in at his ear and came out at his eye on the other side. A couple of bullets went through his body also. Jabez got well, however, and lived many years. *Per contra*, Colonel Rossiter, cracking a plum-stone with his teeth, broke a tooth and lost his life. We have seen physicians dying, like Spigelius, from a scratch; and a man who had a crowbar shot through his head alive and well. These extreme cases are warnings. But you can never be too cautious in your prognosis, in view of the great uncertainty of the course of any disease not long watched, and the many unexpected turns it may take.

I think I am not the first to utter the following caution: Beware how you take away hope from any human being. Nothing is clearer than that the merciful Creator intends to blind most people as they pass down into the dark valley. Without very good reasons, temporal or spiritual, we should not interfere with his kind arrangements. It is the height of cruelty and the extreme of impertinence to tell your patient he must die, except you are sure that he wishes to know it, or that there is some particular cause for his knowing it. I should be especially unwilling to tell a child that it could not recover; if the theologians think it necessary, let them take the responsibility. God leads it by the hand to the edge of the precipice in happy unconsciousness, and I would not open its eyes to what he wisely conceals.

Having settled the cautious course to be pursued in deciding what a disease is, and what its course is to be; having considered how much of your knowledge or belief is to be told, and to whom it is to be imparted, the whole question of treatment remains to be reduced to system.

It is not a pleasant thing to find that one has killed a patient by a slip of the pen. I am afraid our barbarous method of writing prescriptions in what is sometimes fancifully called Latin, and with the old astrological sign of Jupiter at the head of them to bring good luck, may have helped to swell the list of casualties. We understand why plants and minerals should have technical names, but I am much disposed to think that good plain English, written out at full length, is good enough for anybody's use. Why should I employ the language of Celsus? He commonly used none but his own. However, if we must use a dead language, and symbols that are not only dead, but damned, by all sound theology, let us be very careful in forming those medical quavers and semiquavers that stand for ounces and drachms, and all our other enlightened hieroglyphics. One other rule I may venture to give forced upon me by my own experience. After writing a recipe, make it an invariable rule to read it over, not mechanically, but with all your faculties wide awake. One sometimes writes a prescription as if his hand were guided by a medium—automatically, as the hind legs of a water-beetle strike out in the water after they are separated from the rest of him. If all of you would follow the rule I have given, sooner or later some one among you will very probably find himself the author of a homicidal document, which but for this precaution might have carried out its intentions.

With regard to the exhibition of drugs as a part of your medical treatment, the golden rule is, *be sparing*. Many remedies you give would make a well person so ill that he would send for you at once if he had taken one of your doses accidentally. It is not quite fair to give such things to a sick man, unless it is clear that they will do more good than the very considerable harm you know they will cause. Be very gracious with children especially. I have seen old men shiver at the recollection of the rhubarb and jalap of infancy. You may

depend upon it that half the success of Homœopathy is due to the sweet peace it has brought into the nursery. Between the gurgling down of loathsome mixtures and the saccharine deliquescence of a minute globule, what tender mother could for a moment hesitate?

Let me add one other hint which I believe will approve itself on trial. After proper experience of the most approved forms of remedies, or of such as you shall yourself select and combine, make out your own brief list of real everyday prescriptions, and do not fall into the habit of those extemporaneous fancy-combinations, which amuse the physician more than they profit the patient. Once more: if you must give a medicine, do it in a manly way, and not in half doses, hacking but not chopping at the stem of the deadly fruited tree you would bring down. Remember this, too, that although remedies may often be combined advantageously, the difficulty of estimating the effects of a prescription is as the square of the number of its ingredients. The deeper you wade in polypharmacy, the less you see of the ground on which you stand.

It is time to bring these hurried and crowded remarks to a close. Reject what in them is false, examine what is doubtful, remember what is true; and so, God bless you, gentlemen, and farewell!

# OLIVER WENDELL HOLMES, JR.

## THE USE OF LAW SCHOOLS

Mr. Justice Holmes became an associate justice of the United States Supreme Court in 1902. Other of his speeches are included in Vol. II, with a biographical note. The following address was delivered before the Harvard Law School Association, at Cambridge, Mass., November 5, 1886, on the two hundred and fiftieth anniversary of Harvard University.

It is not wonderful that the graduates of the Law School of Harvard College should wish to keep alive their connection with it. About three-quarters of a century ago it began with a Chief Justice of the Supreme Court of Massachusetts for its Royal Professor. A little later, one of the most illustrious judges who ever sat on the United States Supreme Bench—Mr. Justice Story—accepted a professorship in it created for him by Nathan Dane. And from that time to this it has had the services of great and famous lawyers; it has been the source of a large part of the most important legal literature which the country has produced; it has furnished a world-renowned model in its modes of instruction; and it has had among its students future chief justices and justices, and leaders of State bars and of the National bar too numerous for me to thrill you with the mention of their names.

It has not taught great lawyers only. Many who have won fame in other fields began their studies here. Sumner and Phillips were among the Bachelors of 1834. The orator [James Russell Lowell] whom we shall hear in a day or two appears in the list of 1840 alongside of William Story, of the Chief Justice of this State [Wallbridge Abner Field], and of one of the Associate Justices, who is himself not less known as a soldier and as an orator than he is as a judge. [Charles Devens.] Perhaps, without revealing family secrets, I may

whisper that next Monday's poet [Dr. Oliver Wendell Holmes] also tasted our masculine diet before seeking more easily digested, if not more nutritious, food elsewhere. Enough. Of course we are proud of the Harvard Law School. Of course we love every limb of Harvard College. Of course we rejoice to manifest our brotherhood by the symbol of this Association.

I will say no more for the reasons of our coming together. But by your leave I will say a few words about the use and meaning of law schools, especially of our law school, and about its methods of instruction, as they appear to one who has had some occasion to consider them.

A law school does not undertake to teach success. That combination of tact and will which gives a man immediate prominence among his fellows comes from nature, not from instruction; and if it can be helped at all by advice such advice is not offered here. It might be expected that I should say, by way of natural antithesis, that what a law school does undertake to teach is law. But I am not ready to say even that, without a qualification. It seems to me that nearly all the education which men can get from others is moral, not intellectual. The main part of intellectual education is not the acquisition of facts, but learning how to make facts live. Culture, in the sense of fruitless knowledge, I for one abhor. The mark of a master is, that facts which before lay scattered in an inorganic mass, when he shoots through them the magnetic current of his thought, leap into an organic order, and live and bear fruit. But you cannot make a master by teaching. He makes himself by aid of his natural gifts.

Education, other than self-education, lies mainly in the shaping of men's interests and aims. If you convince a man that another way of looking at things is more profound, another form of pleasure more subtle than that to which he has been accustomed—if you make him really see it—the very nature of man is such that he will desire the profounder thought and the subtler joy. So I say the business of a law school is not sufficiently described when you merely say that it is to teach law, or to make lawyers. It is to teach law in the grand manner, and to make great lawyers.

Our country needs such teachings very much. I think we

should all agree that the passion for equality has passed far beyond the political or even the social sphere. We are not only unwilling to admit that any class of society is better than that in which we move, but our customary attitude towards everyone in authority of any kind is that he is only the lucky recipient of honor or salary above the average, which any average man might as well receive as he. When the effervescence of democratic negation extends its workings beyond the abolition of external distinctions of rank to spiritual things—when the passion for equality is not content with founding social intercourse upon universal human sympathy, and a community of interests in which all may share, but attacks the lines of Nature which establish orders and degrees among the souls of men—they are not only wrong, but ignobly wrong. Modesty and reverence are no less virtues of freemen than the democratic feeling which will submit neither to arrogance nor to servility.

To inculcate those virtues, to correct the ignoble excess of a noble feeling to which I have referred, I know of no teachers so powerful and persuasive as the little army of specialists. They carry no banners, they beat no drums; but where they are, men learn that bustle and push are not the equals of quiet genius and serene mastery. They compel others who need their help, and who are enlightened by their teaching, to obedience and respect. They set the example themselves; for they furnish in the intellectual world a perfect type of the union of democracy with discipline. They bow to no one who seeks to impose his authority by foreign aid; they hold that science like courage is never beyond the necessity of proof, but must always be ready to prove itself against all challengers. But to one who has shown himself a master, they pay the proud reverence of men who know what valiant combat means, and who reserve the right of combat against their leader even, if he should seem to waver in the service of Truth, their only queen.

In the army of which I speak, the lawyers are not the least important corps. For all lawyers are specialists. Not in the narrow sense in which we sometimes use the word in the profession—of persons who confine themselves to a particular branch of practice, such as conveyancing or patents—but spe-

cialists who have taken all law to be their province; specialists because they have undertaken to master a special branch of human knowledge—a branch, I may add, which is more immediately connected with all the highest interests of man than any other which deals with practical affairs.

Lawyers, too, were among the first specialists to be needed and to appear in America. And I believe it would be hard to exaggerate the goodness of their influence in favor of sane and orderly thinking. But lawyers feel the spirit of the times like other people. They, like others, are forever trying to discover cheap and agreeable substitutes for real things. I fear that the bar has done its full share to exalt that most hateful of American words and ideals “smartness,” as against dignity or moral feeling and profundity of knowledge. It is from within the bar, not from outside, that I have heard the new gospel that learning is out of date, and that the man for the times is no longer the thinker and the scholar, but the smart man, unencumbered with other artillery than the latest edition of the Digest and the latest revision of the Statutes.

The aim of a law school should be, the aim of the Harvard Law School has been, not to make men smart, but to make them wise in their calling—to start them on a road which will lead them to the abode of the masters. A law school should be at once the workshop and the nursery of specialists in the sense which I have explained. It should obtain for teachers men in each generation who are producing the best work of that generation. Teaching should not stop, but rather should foster, production. The “enthusiasm of the lecture-room,” the contagious interest of companionship, should make the students partners in their teachers’ work. The ferment of genius in its creative moment is quickly imparted. If a man is great, he makes others believe in greatness; he makes them incapable of mean ideals and easy self-satisfaction. His pupils will accept no substitute for realities; but at the same time they learn that the only coin with which realities can be bought is Life.

Our School has been such a workshop and such a nursery as I describe. What men it has turned out I have hinted already, and do not need to say; what works it has produced is known to all the world. From ardent coöperation of student and

teacher have sprung Greenleaf on Evidence, and Stearns on Real Actions, and Story's epoch-making Commentaries, and Parsons on Contracts, and Washburn on Real Property; and, marking a later epoch, Langdell on Contracts and on Equity Pleading, and Ames on Bills and Notes, and Gray on Perpetuities, and I hope we may soon add Thayer on Evidence. You will notice that these books are very different in character from one another, but you will notice also how many of them have this in common—that they have marked and largely made an epoch.

There are plenty of men nowadays of not a hundredth part of Story's power who could write as good statements of the law as his, or better. And when some mediocre fluent book has been printed, how often have we heard it proclaimed, "Lo, here is a greater than Story!" But if you consider the state of legal literature when Story began to write, and from what wells of learning the discursive streams of his speech were fed, I think you will be inclined to agree with me that he has done more than any other English-speaking man in this century to make the law luminous and easy to understand.

But Story's simple philosophizing has ceased to satisfy men's minds. I think it might be said with safety, that no man of his or of the succeeding generation could have stated the law in a form that deserved to abide, because neither his nor the succeeding generation possessed or could have possessed the historical knowledge, had made or could have made the analyses of principles, which are necessary before the cardinal doctrines of the law can be known and understood in their precise contours and in their innermost meanings.

The new work is now being done. Under the influence of Germany, science is gradually drawing legal history into its sphere. The facts are being scrutinized by eyes microscopic in intensity and panoramic in scope. At the same time, under the influence of our revived interest in philosophical speculation, a thousand heads are analyzing and generalizing the rules of law and the grounds on which they stand. The law has got to be stated over again; and I venture to say that in fifty years we shall have it in a form of which no man could have dreamed fifty years ago. And now I venture to add my hope

and my belief, that, when the day comes which I predict, the Professors of the Harvard Law School will be found to have had a hand in the change not less important than that which Story has had in determining the form of the text-books of the last half-century

Corresponding to the change which I say is taking place, there has been another change in the mode of teaching. How far the correspondence is conscious, I do not stop to inquire. For whatever reason, the Professors of this School have said to themselves more definitely than ever before, We will not be contented to send forth students with nothing but a rag-bag full of general principles—a throng of glittering generalities, like a swarm of little bodiless cherubs fluttering at the top of one of Correggio's pictures. They have said that to make a general principle worth anything you must give it a body; you must show in what way and how far it would be applied actually in an actual system; you must show how it has gradually emerged as the felt reconciliation of concrete instances no one of which established it in terms. Finally, you must show its historic relations to other principles, often of very different date and origin, and thus set in the perspective without which its proportions will never be truly judged.

In pursuance of these views there have been substituted for text-books more and more, so far as practicable, those books of cases which were received at first by many with a somewhat contemptuous smile and pitying contrast of the good old days, but which now, after fifteen years, bid fair to revolutionize the teaching both of this country and of England.

I pause for a moment to say what I hope it is scarcely necessary for me to say—that in thus giving in my adhesion to the present methods of instruction I am not wanting in grateful and appreciative recollection (alas! it can be only recollection now) of the earlier teachers under whom I studied. In my day the Dean of this School was Professor Parker, the ex-Chief Justice of New Hampshire, who I think was one of the greatest of American judges, and who showed in the chair the same qualities that had made him famous on the bench. His associates were Parsons, almost if not quite a man of genius, and gifted with a power of impressive statement which I do

not know that I have ever seen equaled; and Washburn, who taught us all to realize the meaning of the phrase which I already have quoted from Vangerow, the "enthusiasm of the lecture-room." He did more for me than the learning of Coke and the logic of Fearné could have done without his kindly ardor.

To return, and to say a word more about the theory on which these books of cases are used. It long has seemed to me a striking circumstance, that the ablest of the agitators for codification, Sir James Stephen, and the originator of the present mode of teaching, Mr. Langdell, start from the same premises to reach seemingly opposite conclusions. The number of legal principles is small, says Mr. Langdell, therefore they may be taught through the cases which have developed and established them. Well, I think there is much force in Sir James Stephen's argument, if you can find competent men and get them to undertake the task; and at any rate I am not now going to express an opinion that he is wrong. But I am certain from my own experience that Mr. Langdell is right; I am certain that when your object is not to make a bouquet of the law for the public, nor to prune and graft it by legislation, but to plant its roots where they will grow, in minds devoted henceforth to that one end, there is no way to be compared to Mr. Langdell's way. Why, look at it simply in the light of human nature. Does not a man remember a concrete instance more vividly than a general principle? And is not a principle more exactly and intimately grasped as the unexpressed major premise of the half-dozen examples which mark its extent and its limits than it can be in any abstract form of words? Expressed or unexpressed, is it not better known when you have studied its embryology and the lines of its growth than when you merely see it lying dead before you on the printed page?

I have referred to my own experience. During the short time that I had the honor of teaching in the School, it fell to me, among other things, to instruct the first-year men in Torts. With some misgivings I plunged a class of beginners straight into Mr. Ames's collection of cases, and we began to discuss them together in Mr. Langdell's method. The result was better than I even hoped it would be. After a week or two, when the

first confusing novelty was over, I found that my class examined the questions proposed with an accuracy of view which they never could have learned from text-books, and which often exceeded that to be found in the text-books. I at least, if no one else, gained a good deal from our daily encounters.

My experience as a judge has confirmed the belief I formed as a professor. Of course a young man cannot try or argue a case as well as one who has had years of experience. Most of you also would probably agree with me that no teaching which a man receives from others at all approaches in importance what he does for himself, and that one who simply has been a docile pupil has got but a very little way. But I do think that in the thoroughness of their training, and in the systematic character of their knowledge, the young men of the present day start better equipped when they begin their practical experience than it was possible for their predecessors to have been. And although no school can boast a monopoly of promising young men, Cambridge, of course, has its full proportion of them at our bar; and I do think that the methods of teaching here bear fruits in their work.

I sometimes hear a wish expressed by the impatient, that the teaching here should be more practical. I remember that a very wise and able man said to a friend of mine when he was beginning his professional life, "Don't know too much law," and I think we all can imagine cases where the warning would be useful. But a far more useful thing is what was said to me as a student by one no less wise and able—afterwards my partner and always my friend—when I was talking as young men do about seeing practice, and all the other things which seemed practical to my inexperience, "The business of a lawyer is to know law." The Professors of this Law School mean to make their students know law. They think the most practical teaching is that which takes their students to the bottom of what they seek to know. They therefore mean to make them master the common law and equity as working systems, and think that when that is accomplished they will have no trouble with the improvements of the last half-century. I believe they are entirely right, not only in the end they aim at, but in the way they take to reach that end.

Yes, this School has been, is, and I hope long will be, a center where great lawyers perfect their achievements, and from which young men, even more inspired by their example than instructed by their teaching, go forth in their turn, not to imitate what their masters have done, but to live their own lives more freely for the ferment imparted to them here. The men trained in this School may not always be the most knowing in the ways of getting on. The noblest of them must often feel that they are committed to lives of proud dependence—the dependence of men who command no factitious aids to success, but rely upon unadvertised knowledge and silent devotion; dependence upon finding an appreciation which they cannot seek, but dependence proud in the conviction that the knowledge to which their lives are consecrated is of things which it concerns the world to know. It is the dependence of abstract thought, of science, of beauty, of poetry and art, of every flower of civilization, upon finding a soil generous enough to support it. If it does not, it must die. But the world needs the flower more than the flower needs life.

I said that a Law School ought to teach law in the grand manner; that it had something more to do than simply to teach law. I think we may claim for our School that it has not been wanting in greatness. I once heard a Russian say that in the middle class of Russia there were many specialists; in the upper class there were civilized men. Perhaps in America, for reasons which I have mentioned, we need specialists even more than we do civilized men. Civilized men who are nothing else are a little apt to think that they cannot breathe the American atmosphere. But if a man is a specialist, it is most desirable that he should also be civilized; that he should have laid in the outline of the other sciences, as well as the light and shade of his own; that he should be reasonable, and see things in their proportions. Nay, more, that he should be passionate, as well as reasonable—that he should be able not only to explain, but to feel; that the ardors of intellectual pursuit should be relieved by the charms of art, should be succeeded by the joy of life become an end in itself.

At Harvard College is realized in some degree the palpitating manifoldness of a truly civilized life. Its aspirations are

concealed because they are chastened and instructed; but I believe in my soul that they are not the less noble that they are silent. The golden light of the University is not confined to the undergraduate department; it is shed over all the schools. He who has once seen it becomes other than he was, forevermore. I have said that the best part of our education is moral. It is the crowning glory of this Law School that it has kindled in many a heart an inextinguishable fire.

# MURRAY HULBERT

## INVENTIONS AND INVENTORS

Murray Hulbert was born in Rochester, New York, in 1881, was admitted to the New York bar in 1902, a member of Congress from 1915 to 1919, president of the Board of Aldermen of New York City from 1922 to 1925. This speech was delivered at the dinner in honor of Thomas Alva Edison given by the New York Edison Company at the Commodore Hotel, New York City, September 11, 1922.

MR. TOASTMASTER, HONORED GUEST, LADIES AND GENTLEMEN:—A few weeks ago it was my privilege to visit my boyhood home, and, of course, I had to attend a Sunday school picnic. On that occasion I had been asked to make a presentation to the pastor. When the afternoon had gotten well under way, and everyone seemed to be having a good time renewing friendships and acquaintances, the proceedings were suddenly interrupted by the master of ceremonies, who said, "Shall we have the address now, or permit the children to enjoy themselves a little longer?" [Laughter.] And so I feel, as I look out upon your happy and smiling faces (seated as you are, about a dais which is on the level of the floor, so that you are all at Mr. Edison's table, all members of a happy family, gathered around to felicitate him), that it is a pity that the proceedings should be interrupted at this time by the introduction of myself.

I am grateful, however, for the fact that Mr. Edison delayed the invention of the incandescent lamp until the year that I was born, so that I might have the privilege of being here this evening in the capacity in which I am attending this dinner.

When one contemplates the record of our honored guest, there is borne in upon him the truth that every man of history who has contributed anything to the march of progress and

civilization in the way of a discovery or an invention, has been compelled to force his work upon a protesting humanity.

There was Christopher Columbus who fought for eighteen years for the opportunity to demonstrate that the world was round, and against the stings of poverty and the slander and the misrepresentation of his fellow men. Dr. William Harvey when he proclaimed his theory of the circulation of the blood was laughed to scorn and presently lost his practice. James Hargreaves, the inventor of the spinning jenny was driven out of the spinning business. Richard Arkwright, despite the fact that the machine for making stockings was refused by the manufacturers of England, that all of the barristers denounced him, that the courts of law decided against the validity of his patents, turned his inventive genius to the making of the first cotton fabrics, and thus established one of England's greatest industries.

Oliver Evans, who, because of his petition in 1786 for legislation for the sole right to use wagons propelled by steam on the public highways, was deemed defective in his mental faculties, later succeeded in building a five-horsepower steam body, placed it on wheels, and ran it through the streets of Philadelphia to prove the correctness of his theory.

Then George Stephenson, the inventor of the first locomotive in England, used on the Killingworth Railway in 1814, encouraged by his success, took out a patent and built a series of locomotives which were used for hauling cars at the coal mines. At length he sought and obtained recognition by the British Parliament, but when it became known that a bill would be introduced to permit the operation of the steam railway a public appeal was made to oppose it. Pamphlets were written and distributed and newspapers reviled the railway; the poisoned air from the locomotives would kill birds, houses would be burned up by the fires thrown from the chimneys of the locomotives, boilers would burst and blow the passengers to atoms. There was also this consolation to wind up with, that the weight of the locomotive would prevent its movement. Stephenson had said to friends that he was confident a locomotive could be built that would carry a train of cars at the rate of twenty miles per hour, but such a claim was received

by the public as ridiculous and the proposal laughed to scorn. His opponents tried to badger him in every way that they could. A distinguished barrister represented about the general level of ignorance at that time when he said: "Any gales of wind that would affect the traffic on the Mersey would render it impossible to set off a locomotive, either by poking the fire or keeping up the pressure of the steam till the boiler was ready to burst."

Gas, as an illuminator, was first introduced by William Murdoch, who constructed a gas meter and apparatus for lighting his own house. Satisfied with his achievement, Murdoch inaugurated a gas lighting system at Soho, Birmingham. But the invention made little or no progress. This new agent, everyone said, was dirty; had an ill smell, and produced headaches. Street lamplighters went on strike and parish authorities declared their intention to uproot any lamp posts and pipes erected in their jurisdiction. The people could not understand the possibility of conveying gas and thought that the pipes themselves would be full of flames. Even Sir Humphry Davy declared it would be necessary to use a receptacle as large as the dome of St. Paul's cathedral as a gas holder, and Sir Walter Scott sarcastically remarked that it was proposed to light the City of London with smoke.

The first dramatic scene which followed Eli Whitney's invention of the cotton gin was its theft and duplication.

It took Dr. Edward Jenner three months before he could find a person willing to submit himself as a subject for vaccination in order to demonstrate the truth of Jenner's discovery.

Plenty of people laughed at Robert Fulton's enterprise. Idle-minded men crowded near the shipyards and gave their reasons for predicting the certain failure of "Fulton's Folly" as they nicknamed the *Clermont*. Lack of money proved a hindrance, but she began her first voyage on the 17th of August, 1807, and there were almost as many quaint descriptions of the boat as there were people who saw it. One described it as ungainly, a craft looking precisely like a backwoods sawmill mounted on a scow and set on fire. Others said that the *Clermont* appeared at night like a monster moving on the waters, defying winds and tides, and breathing volumes of smoke. Some of

the ignorant along the Hudson fell on their knees and prayed to be delivered from the monster.

Cyrus McCormick, a Virginian, in 1831 produced a machine that successfully cut grain. The following year he demonstrated it to a gathering of harvesters who were not too eager to see a mechanical device enter into competition with their labor. So skeptical were the farmers that it was several years before a reaper was sold. During the panic of 1837 McCormick surrendered his farm and other property to his creditors but none of them was interested in the crude reaper sufficiently to consider it worth taking. Faith had its reward. In 1840, a stranger rode up to his workshop and bought his first reaper for \$50. A little later other farmers invested and he had the satisfaction of knowing that in the harvest of 1840, three of his reapers were used. By 1844, he had sold fifty machines. His log workshop had become a busy factory. Necessary materials were not to be obtained in Virginia for his growing business, so in 1847 he established himself in Chicago where his great industry has grown to tremendous proportions.

Samuel F. B. Morse filed his application for a patent on his invention of the telegraph in 1837 and, failing to secure from Congress an appropriation for an experimental line between Washington and Baltimore, went to Europe seeking aid. The governments there refused funds or patents. Upon his return home, he began a heroic struggle for recognition. Finally, after repeated disappointments, on the last night of the session of the Twenty-seventh Congress, March 3, 1843, by a vote of 90 to 82, \$30,000 was appropriated to construct a trial line between Washington and Baltimore.

During the years from 1830 to 1840, Charles Goodyear was frequently imprisoned for debt. The use of rubber during this time was attracting general attention and he became interested in finding a way to increase its utility. Much of his experimentation was carried on in prison, and he became the butt of those who did not share his faith in the ultimate success of his experiments. Early in 1859, Goodyear found that rubber coated with sulphur and then heated was rendered uniformly elastic in all temperatures. He had solved the problem, but it was fully two years before he could convince anyone of that fact.

Finally, William Rider furnished capital for carrying on the process of manufacturing rubber goods. Goodyear's friends considered him a monomaniac. He even dressed in rubber clothes in order to test them. Upon being asked how Mr. Goodyear might be recognized, a friend replied: "If you see a man with an India rubber coat on, India rubber shoes and India rubber cap, and in his pocket an India rubber purse without a cent in it, that is Goodyear." [Laughter.]

The hope of relieving his extreme poverty set Elias Howe to work in 1843 upon the invention of the sewing machine, and he fared as had Mr. Goodyear.

Alexander Graham Bell brought forth the first instrument that would transmit spoken words. Although his invention became an object of interest at the Centennial Exposition at Philadelphia, business men could see little future for its development for practical purposes. They admitted that it was very ingenious but declared that it could be only a toy. It remained for our honored guest of the evening to demonstrate the use that could be made of an electrical toy in order to smooth the pathway of humanity.

Born in circumstances as humble as any of the great inventors who preceded him, his youth was beset with trials and obstacles; and his early manhood was equally as strenuous in effort and enterprise, yet he succeeded in surmounting his difficulties and rising to the pinnacles of his chosen field of endeavor.

We are reminded of his great capacity for details (and that has been defined as the essence of genius); we have learned of his deep reverence for accuracy and carefulness, yet had it not been for a slight deviation from that straight path we might not have heard of Thomas Alva Edison, for my information is, that when in his early days, he was engaged in the sale of newspapers on one of the Western railroads, he began experimenting in the baggage cars, and there rigged up a sort of a temporary laboratory; and upon one occasion he spilled a quantity of acid which set fire to one of the cars. In consequence of this the boy lost his position, but within a day or two thereafter he was instrumental in saving the life of a child of the station master, and so grateful was the father of

that youngster that he undertook to teach him the science of telegraphy. So it was that Mr. Edison became a telegrapher, which started him upon his journey of accomplishment. One of the great things that he did with the knowledge thus gained was to invent and give to humanity that notable achievement of sending four messages at one time upon one wire, which he afterward extended to six; and not alone was he active in the improvement of the telegraph, but his invention of the carbon transmitter was one of the great factors in the development of the telephone.

How fortunate it was for the commercial world that Edison had acid to spill, for it was not long before he had set his sun in the firmament to light the world, and if other men had been hounded nigh to death for merely one discovery, how would our esteemed guest have fared in those days with his more than one thousand inventions?

Can anyone forget his impressions on first hearing the talking machine? Do you remember how you felt like uttering the old farmer's soliloquy when he first saw a giraffe, "There ain't no such animal"? Why, it was witchery, more heinous than ever condemned a poor old crone in Salem. The machine that gives voice even to those who speak no more!

And the motion picture! Registering forever the actions, the gestures, the live features of the great men of this day so that future generations need never again depend upon the pictures painted by the facile pens of gifted artists, but may see for themselves the things and men that were.

And paradoxical as it seems, we can see in action in public those who may then be sleeping soundly in their downy beds.

And if Hargreaves, Stephenson, Arkwright and their brother inventors were among the outstanding figures of their day, how shall we classify Mr. Edison, who, applying his discoveries of the dynamo and the electric light to these inventions, has given them a capacity and an efficiency that would have compelled even these geniuses to gasp with wonder?

His invention of the storage battery has not only produced motive power for vehicles but has also brought the art of refrigeration nearer perfection. Thus in the study of Mr. Edison's life one is impelled to reach the conclusion that he

must be numbered among the world's greatest benefactors to humanity.

Is it reasonable to suppose that without the discovery of the incandescent lamp there would be such an instrument as the X-ray that makes possible to-day cures that a few years ago would rank as miracles?

And so it goes through the whole realm of mechanical power; the gifted mind of Edison has supplemented the slower generating power of steam, by the instantly responsive and dynamic force of electricity.

Even as Moses with his rod struck the rock and the waters gushed forth, so Edison struck an electric current and turned night into day. In fact, in this regard, Mr. Edison, by the abolition of darkness, is the father of real daylight saving. [Applause.]

Although Columbus discovered America, Edison bettered him by making an empire out of a single municipality of America; I refer to the great City of New York.

We have all grown so used to what we have that it takes an occasion such as this to make us understand our great good fortune over that of our fathers.

The electric light and the electric train made New York's subway possible.

Who can remember without a shudder New York's puffing, snorting, noisy steam engines on our elevated roads?

The discovery of the electric dynamo made possible those huge office buildings of which New York is so proud.

Can anyone picture a Coney Island Mardi Gras by gas light? And what would Broadway be without its white light district?

So the people of New York, both in their hours of work and in their hours of play realize that Mr. Edison has in very truth made easier and more agreeable their path of life. And therefore, as Acting Mayor of this great municipality, I know that in extending congratulations to Mr. Edison, I am giving voice to the sentiments of our six millions of people and their feelings of appreciation and gratitude for his great work for humanity, and I take great pleasure in presenting you, Mr. Edison, with this gold key which carries with it the Freedom of the Greatest City on Earth. [Applause.]

# F. CHARLES HUME, JR.

## TO YOUNG LAWYERS

Mr. F. Charles Hume, Jr., a prominent lawyer of Houston, Texas, died in January, 1926. The following speech was given at the dinner of the American Bar Association in Minneapolis, August 31, 1906.

MR. TOASTMASTER, LADIES, FELLOW PRACTITIONERS, AND YOUNG LAWYERS:—I feel that I need no introduction to the lawyers of America. In this distinguished company I feel assured that I do not speak in a stranger's voice—but in my own. For many years my name has been a household word—among the members of my own family. Whether the premonitory rumbles of coming greatness have preceded me here, I know not. In my own state I am not known solely as a lawyer. My fame is also titular: I am called "judge" by the obsequious office boy, and by the janitor—"where thrift may follow fawning." But my preëminence rests on no firmer foundation than authorship of a work upon an important legal subject. And in justice to myself and my state I must say that I owe my juristic rank, and such name and fame as I bear, to my "domestic relations."

It would be superfluous for me to say that this is the happiest moment of my life, because it is—not. After-dinner speaking is an effort to appear at ease and happy, though fearful and tumultuous. It is, indeed, an unusual accomplishment. It is the *pâté-de-foie-gras* of oratory—a conditional rather than a normal mode of expression. The archetype of the art is the impromptu speech. It is often an unplumed squab for flight, and heavy with "the stuff that dreams are made of"—the art that's long when time is fleeing. It attains its perfection *ex post facto*, or retroactively; that is, after the banquet hall's deserted, and the speaker is homeward bound alone. How preg-

nant then and cheerful are the words of philosophy: Sweet are the uses of—retrospection.

Upon this occasion I urge no claim to offhand powers of eloquence. I cannot say, and it would be vain for me to assert, that this is an extemporaneous effort. The weight of internal evidence would crush the contention; and the faithful years of laborious preparation would shrink aghast at such wild asseveration, and put to shame my base ingratitude. On the contrary, behold in me the sophomoric apostle of the midnight oil—a sedentary sacrifice to a young life's masterpiece!

From the lawyers of Texas I come—unarmed—bringing to you the message of civilization. Without hope of reward, and without fear of recognition, I have come to lend the charm of high professional character, and impart tone to this meeting. It is not to me, however, that your thanks are due for my presence here. It was my brethren of the bar who sent me on this mission, conscious of its perils. I will not shield them. It was they who did command and hasten my departure hither, with the classic Spartan adjuration, Go; come back with your nerve, or on it!

Gentlemen, I am a modest man, as all men are that say they are. And my chief characteristic, aside from physical pulchritude, is candor; that is, I am a blunt man even to the point of dullness. Yet I clearly see that there is a duty devolving upon those of us who have attained the heights, to cast benign glances upon the young lawyers struggling in the valley below. For at last the young lawyer is the hope of the profession, as he is the despair of the trial judge.

This evening I shall not shirk my grave responsibility. I shall "a round unvarnished tale deliver," concretely presenting the subject in static and dynamic aspects, and undertaking to impress upon the young lawyers the lessons to be drawn from the careers of the eminent men who adorn our profession. And this notwithstanding the fact that I must speak for myself—a part of my practice which I have always had the tenacity and good fortune to hold.

From childhood my favorite form of composition has been autobiography. I despise shams and pretenses. A man should be what he is, and say what he is. I do not pretend to be

a great lawyer—I am! Is it come to pass, forsooth, that greatness is a mockery? In these untoward days must we needs forswear our fundamental convictions? Not I, gentlemen. My position is sustained by the highest authority in the land. Without specific citation I refer you to my own edition of “Parents’ Reports” for the leading case upon which I rely, styled “Our boy against the world,” announcing the doctrine so dear to the young lawyer as the bulwark of his premature renown—the elemental principle, so tenderly expressed by the fireside poet, Whatever mother says is right.

And yet I was once a young lawyer. And to-day I love the young lawyer even as I do myself; and all I shall say will proceed from an impulse to do him good. I am neither “case” hardened nor embittered by multiplicity of suits. I shall be cruel only to be bright. My sympathies are broad and deep; yet I can look upon him in the “dry light” of science—dispassionately and without asperity. So to-night I shall lay aside all distinctions and treat them as if equals.

The young lawyer exults in logic and analysis—he defies them both. Let us contemplate him. He may be described as the *genus homo importans*—“deep on whose front engraven deliberation sits and public care.” He is *res tota*—in the modern tongue, “the whole works.” He is great in *persona* rather than in *rem* or in *rebus*. According to experienced trial judges the young lawyer is a contradiction in terms, yet a necessary evil, whose chief function is to grow older. Like the law he is a process, not a complete product—university diplomas notwithstanding. In judicial opinion he is *obiter dictum*. Among lawyers he is *sui generis*—a sort of difference without—a distinction. The jurists appear to concede that he exists by presumption of law, and the weight of authority seems to be that he thrives by presumption in fact. He can scarcely be said to come within the purview of the laity; his name loometh large on his own sign to the public. It shineth from afar—and very faintly. He is not expressly classified among the public utilities, but he no doubt has his place; the difficulty is to find it. His sphere is coextensive with that ascribed by Lord Brougham to the law of England—“to get twelve men in a box”—and jam down the lid!

He is a peripatetic institution of learning, dedicated to his own glorification, endowed with majestic powers of his own imagining, and founded upon the three cardinal virtues, faith, hope, and charity—faith in his own infinite knowledge, hope for the obtuseness of judges and juries, and charity for the older lawyers who have all the business; and the greatest of these is faith.

He disdains to shine by reflected effulgence. He is a legal light in, and unto, himself, only waiting to be extinguished. To him law and abstract justice are the same. He is long on theory and short on practice. With him "knowledge comes, but wisdom lingers." And until he realizes that men and all human institutions are mere approximations to perfection, and that good and evil alike are persistent forces, with juridical "eye in the fine frenzy rolling" he crouches in his lair, like a fierce giraffe, ready to leap, upon quixotic provocation, to right the wrongs of an erring world. And be it said to his honor that he stands peerless and transcendent in the domain of "Buffalo Jurisprudence" and "Kangaroo Procedure."

I have never talked to a young lawyer that did not "out-Herod Herod" for prosperity. It is not with him an occasional or acute attack, but a chronic condition. As a young lawyer I had more business than I could have attended to in sixty years, and the magnitude of my income was incredible. But as I grew older, the law somewhat fell in disrepute with clients, and my coffers contained naught but "intangible assets."

The lawyer should know everything—the young lawyer does. If the old lawyer knows most, the young lawyer knows best. It is no trouble for him to tell what the law is—it is rather a surprise. But the evil day cometh apace when, "with assurance doubly sure" and stride triumphant, he marches into court with his first case; and, enveloped in the darkness of his own pleadings, he falls into the clutches of the grisly old gorilla, General Demurrer. Let us not paint the pathetic picture, nor voice the lamentation.

The young lawyer is gregarious—he cometh in flocks. But tremble not, friends, at the annual increase of competitors, for many young lawyers are called, few deliver the "merchandise." To the established practitioner the situation is not hopeless,

but has its compensations. Let us be just, for we know that the young lawyer is a valuable litigious asset. And, furthermore, whether we agree that the law is an exact science or not, we know that it has a sort of certainty that often amounts to fatality; and that, while its policy is to put an end to litigation, its practice puts an end to young lawyers, thus establishing in the profession a subtle relation of equilibrium between genesis and exodus. Also let us be generous. And when the young lawyer feels that his place is precarious, and that his talents are not appreciated, and that everything is against him, let us exhort him to brace up, have courage, and be firm; for conditions will change and probably get—worse. And, my dear young friend, let me admonish you, in the melancholy hour, whatever may betide, to think always of the nobility and dignity of your profession. Keep well in your own mind that you are a lawyer; and some day perhaps the community will discover your secret. Make yourself agreeable to the old practitioners. Keep in touch with them. Impress them with your significance, and with the fact that you have a college education. Let them know that you are a “coming” as well as a “going” concern. Tell them how well you are doing; that you fight cases to a finish and never let up. Blow—even as the four winds; they admire enthusiasm. Do equity by them; withhold not the worst; when you have lost a suit, go to them—*pari passu*. Regale them with the law of extenuating circumstances; cover the subject—to the point of exhaustion. Try the case all over again for their refreshment. You may get another trial—if their opinion theretofore has been good they will probably set aside the judgment.

Shun, as you would the pestilence, the evil spirit of commercialism in your professional conduct. Be not money-driven hirelings of a trade. I have heard that, in some sections of our country, lawyers have yielded to this sinister influence and have trailed the priceless standard of our calling in the golden dust, and have sacrificed our lofty traditions upon the altar of Mammon. Reluctantly though I confess it, I am reliably informed that lawyers in the large cities of the North and the East have reduced the profession to a business; that they boldly receive money for legal services, and actually earn from

this source a comfortable livelihood. And some, more daring than the rest, are said in this doubtful manner to have acquired a fortune. Coming as I do from a distant state, whose professional atmosphere is chaste and undefiled, I hesitate to believe the accusation. And I may add, with pardonable pride, that never in my personal experience at the Texas bar has such an ominous condition of affairs been known to exist. My own observation has been that in Texas the rich lawyer is a paradox; and my conjecture has been that in other states he was a "legal fiction." Yes, my friends, in good conscience I may aver that in the imperial state from which I come the law, like virtue, is its own reward—at least I have found it so.

Esteem the law, thy mistress, the guardian angel of blind justice, and, by men's unthought appointment through the ages, her majestic voice and dread interpreter. She sits aloft on the rock-ribbed Mount of Right—a peaceful virgin, frowning chaos and disorder down throughout the world. To stay the hand of reckless might and turbulence she reacheth forth; and higher yet to lift the blood-won standard of long-wakening man's humanity to man. From us she's hid betimes in mist, and from her dim retreat 'tis sport to watch us climb and stumble, fall and then again essay the height. There leads no path of dalliance to her bower; to her favor winds the stubborn royal road of honor, courage, and devotion. With the largess of content that on the faithful she bestows, nor gold, nor regal purple, nor the "wreath of Ind," nor argosy with precious stones deep laden, e'en can vie; all these are but the greedy gew-gaws of a life misused, against the tranquil balm which waits the seal of her approval. My friends, she is a stern mistress, "correctly cold," and never to be completely subdued. To the blandishments of the young man of wealth she usually giveth the "marble heart." For a soft income turneth away resolution, and dulleth the edge of endeavor.

Develop generous impulses. It is to my keen sense of gratitude that I chiefly owe my present business relations. When the world was apprised, through the Associated Press, that I had procured license to practice law, the clamorous demands usually made for the services of the young lawyer by interests in large cities were directed toward me. But my father, who

had sent me to school, I felt had some claims upon me. So I took no account of any of the inducements offered me. I went to my father and said: "You have educated me—at least you think you have. I am grateful. You have an established practice; you need me." And I proved it by taking him into partnership. I advise every young lawyer similarly situated to follow my example, especially if he has any reverence for the three graces—food, shelter, and raiment. Censure me not for paternalism; each to his own. Verily, to depend on our fathers is silver; to depend on ourselves is "brass." And, lest you have cause to lament with your client, I charge you fling away self-reliance, for by that sin fell the angels.

May you always know the flush, but never the blush, of victory. And to this end remember that in our time under the statute *de bonis asportatis* you must not be "caught with the goods."

You will no doubt make mistakes. The man that never makes mistakes never makes anything. And to the man of indomitable will nothing succeeds like failure. "Upon our dead selves as stepping stones we rise to higher things." I have traveled the road myself. I want to see you successful. You have my best wishes ever. In your adversity my heart goes out to you; in your prosperity—my hand.

In conclusion—be your success, as men call it, what it may, bear in mind that change is the law of life. The watchword of progress is "move on"; and fixation is retrogression. And in this regard, doth justice ever grant fair and ample dispensation to her servitors of the law. Mindful of your solace, she hath wisely provided. And when the city's "thick-coming" complications, and garish flare and turmoil, shall have palled upon you, and you have overtaxed your "credulity in listening to the whispers of fancy"; and have pursued with vain "eagerness the phantoms of hope," you may still answer the plaintive call of the bucolic siren for her own—and take to the tall timber. And, my dear young friends, as a prophet without honor in his own, or any other country, let me predict that I shall precede you there; and be the first to bid you welcome, in copious draughts of obscurity, back to nature and the simple life.

# WILLIAM RALPH INGE

## FAITH AND REASON

The Very Reverend William R. Inge, Dean of St. Paul's Cathedral since 1911, is one of the most noted speakers and writers among the English clergy. Although he is often spoken of as the "Gloomy Dean" his speeches are far from being examples of pessimism. In his visit to this country in 1925 his lectures and addresses attracted wide attention. The following address was one of a series delivered originally to undergraduates in Oxford in 1923.

THESE addresses are to deal with personal religion, which is a matter for us all. Some of you are students of philosophy, who may be interested in discussions about the place of the intellect, and of the will, in religious life. But I do not wish to talk about these problems to-day. My object is to explain, as far as I can, what Faith means, and what it must do for us. But first I wish to make some general remarks on the hindrances to the spiritual life with which most of us are too familiar.

The spiritual life means a life of communion with God, a life in which the soul has free access to God, and God to the soul. Most of us find this communion with God so difficult that we are sometimes tempted to doubt whether it is a genuine experience at all. Or if we do not put it so strongly as that, we have to admit that it is not real to us. When we speak of real life, we generally mean the world around us, all the things that we can see and hear and touch. The world of ideas, art, science, philosophy and religion, seems to us less real because it is intangible and invisible. Most men, during their working and playing hours, are chiefly concerned with concrete things. Even students are more occupied in loading their memories than in contemplating ideals. And so when we try to turn our thoughts to God, when we kneel to pray or endeavor to remember

heavenly things at spare moments, we find it very difficult. Our minds do not work easily or naturally on these subjects. There is something forced and unreal about our meditation or devotion. We find that we are not really praying at all, but only repeating words mechanically. And then comes the temptation to say, "My religion is a sham, an unreality. I wonder if the religion of others is only make-believe too?"

Now I have one or two remarks to make about this. In the first place, it is quite natural and inevitable that if we spend sixteen hours daily of our waking life in thinking about the affairs of this world, and about five minutes in thinking about God and our souls, this world will seem about two hundred times more real to us than God or our souls. That must be so, however real and important the spiritual world may actually be. The fact that it seems unreal to us is no argument that it is unreal, if we hardly ever think about it. Things that we do not think about always seem unreal to us. Do not then argue that God is unreal because He seems unreal to you. Ask yourselves whether you have given Him, or rather yourselves, a fair chance.

Secondly, people are very differently constituted in their capacity for religious feeling. Some are religiously gifted, others are not. Some have what is called the mystical sense—the power of feeling the presence of God intensely and intimately; others have it not. Two mistakes are often made about this gift of devotion. Some think that it is a proof of goodness and holiness—that all those whose hearts are right with God have it, while those who are unregenerate have it not. Others think that it is all a delusion, a product of excited nerves and morbid imagination. Both are wrong. The gift of devotion is an endowment like a taste for music or poetry. In its highest form it is a genius of a certain kind. The saints are our masters in the spiritual life. They have the same kind of authority in their own sphere that the great poets and musicians have in theirs. We sit at their feet and learn from them what we are able to assimilate. We do not think that music is all rubbish, because we happen to be unmusical, nor, like George III, that much of Shakespeare is "sad stuff," because we may happen to prefer a sensational novel. The great

saints have been men of genius, no less than Handel or Shakespeare. Why should we not trust them on their own subject?

But it is almost as great a mistake to suppose that religiosity is a mark of the goodness which God values. Clergymen, I am afraid, often make this mistake, carried away by professional zeal; but laymen know better. They know that the most unselfish, upright, kind-hearted men of their acquaintance are often not outwardly religious. At any rate, no one could call them saints or mystics. Now the right way to look at this is that the gift of devotion is a good and precious gift, which we ought to cultivate and be very thankful for if we have it, and a thing which we ought all to try to acquire; but that it is not a measure of our acceptance with God. From what we read of the Twelve Apostles, I should gather that most of them were not religiously gifted men naturally. Our Lord chose them because they were true-hearted and generous men, men capable of making great sacrifices, brave and loyal men. If then you have this gift, do not be proud of it; do not suppose that it will necessarily make you pure and honorable and unselfish. I regret to say that this is very far from being the case. And if you have it not, recognize frankly that it is a defect in your make-up, and that you must go to school humbly to the saints, in order to know what are the high and holy truths which God reveals, by His Spirit, to some men and women, whom He chooses to be the receivers and witnesses of these revelations. Do not disbelieve what they say because you cannot have these experiences yourselves, and do not think meanly of yourselves, because God has not committed this special grace to you. Only, before you make up your minds that you are spiritually short-sighted, I repeat that you must give the Holy Spirit, or rather yourselves, a fair chance. You do not give Him, or yourselves, a fair chance unless you determine to perform frequently what are called acts of faith. I mean that we must force ourselves to direct our whole minds, our wills, our affections, our intellects, towards divine things. When we have a few minutes to ourselves, alone, we should say to ourselves, "Now I want to think about, and make real to myself, those great facts about the unseen eternal world which Christ has revealed to us, and

which thousands of good men and women have seen and felt as plainly as I see and feel this table and chair in my room. Lord, I believe; help Thou mine unbelief. Open Thou mine eyes, that I may see the wondrous things of Thy law. Thou hast said, O Lord, Blessed are the pure in heart, for they shall see God. O make my heart pure, that I may see Thee." You will find these exercises very difficult at first, and you will sometimes doubt whether they are doing you any good. But believe me, they will clear and open out channels in your minds which are now choked up from disuse; they will make it possible for the fresh springs of God's grace, the sweet influences of His Holy Spirit, to flow freely through your hearts. They will gradually form habits of spiritual communion, which will be an inestimable joy and help to you. Surely you may trust those who have tried it, when they all say the same thing. "They that know Thy name will put their trust in Thee, for Thou, Lord, hast never failed them that seek Thee."

But, perhaps, some may say, "I am not sure that I ought to force my mind into this groove, even if it would make me happier to do so. I have serious doubts, and I think I ought to face them." Certainly you ought to face them. While you only drive them away, you will never be free from them. But let me suggest this to you. Religious doubts, it seems to me, are of two kinds. Some doubts congregate upon some particular doctrine or dogma of religion. There is a skeleton in our spiritual cupboard which destroys our sense of security, our joy and peace in believing. We have, perhaps, read or listened to one of those misguided apologists whose favorite weapon is the dilemma. "You tell me you don't believe so and so. Well, then, you can't believe this other thing either. And if you don't believe this other thing, your whole religion must go by the board. Take it or leave it; the whole stands or falls together." Well, that is a very unfair and a very calamitous way of arguing. I say to you, pull the skeleton out of the cupboard and have a good look at it. Ask yourself candidly, what does this doctrine prove, if it is true? And what necessarily goes with it, if it has to go? Is it part of my religion, or only a bit of scaffolding, or an outwork, or perhaps not even that, but something which I have vaguely supposed to be somehow

connected with Christian belief? And why do I doubt it? Are my reasons good or bad? The result of this inquiry will sometimes be that you will recover your belief in this particular doctrine or dogma, but more often, perhaps, that you will find that it is, for you at any rate, unessential, not a religious difficulty at all. This will very probably be your conclusion if the difficulty is about some event in the distant past or in the distant future.

But if your doubt does not concern any particular doctrine, but comes over you as a general incredulity, a cold skepticism or indifference to the spiritual world as a whole, that is, in part at least, a moral disease to be combated with moral weapons. If the whole of a distant landscape, which others have described to me, is a mere blur to my eyes, I infer either that there is a fog, which will pass away soon, or that there is something wrong with my vision. It is when we are troubled with this second kind of doubt that it becomes a pertinent and not an impertinent question, Have I done anything to injure my spiritual eyesight? Is there any reason why I cannot expect to see God? Am I sure that I want to see Him, and to know that He is looking at me? It will do us no harm to ask these questions, even though in some cases our hearts may not condemn us. Perhaps there is nothing wrong with our eyes. Perhaps it is only a fog sent for our discipline. If so, be patient, the clouds will roll by.

Some may object that the authority of the intellectual world seems to be against the Christian Faith, and that they have no wish to be stranded in an intellectual backwater. The answer to this is, that we are wise to trust an expert on his own subject, and to follow him very warily when he goes off it. This cuts both ways. We have had a theological astronomy and cosmogony and biology and history, with which the Christian Faith has unfortunately become entangled. These are, of course, relics of obsolete science; they were not supposed to be unscientific when they were first accepted. If your faith is well grounded, take a bold line about these things. There is no obligation for Christians to live in a pre-Copernican or a pre-Darwinian universe. But we have also had a materialistic metaphysics and a determinist ethics, based on a very crude

mechanical theory. You will not find that the ablest scientific men to-day are so ready to explain mind and spirit in terms of matter.

Give to science the things that belong to science, and to religion the things that belong to religion. I do not say that there are no difficulties; there are many. But trust the saints when they write or speak about God and the soul. And, above all, trust our Lord Jesus Christ when He tells us that God is our Father, Who loves and cares for us all. Our Blessed Lord at any rate convinced those who heard Him that He spoke with authority; and His testimony has been confirmed by all who have trusted in Him from that day to this. The disciple of Christ may sometimes hear objections to his faith which he cannot answer; but he will have the last word if, like the man whom Christ restored to sight, he can say, "One thing I know, that whereas before I found Him I was blind, now I see."

Let us now turn to the word Faith. The word rose in dignity between the time of Plato, who allied it with "opinion," and the Epistle to the Hebrews, where it is defined as the substance (or assurance) of things hoped for, the evidence (or test) of things not seen. I have not time to discuss the exact meaning of the two nouns used in this famous definition; but it is clear that the writer makes Faith in some sort an anticipation of knowledge, and a guarantee of it. In another verse of the same chapter it is said to be "a seeing of the invisible," on which St. Augustine's comment is true and fine. "*Errabant quidem adhuc et patriam quaerebant; sed duce Christo errare non poterant. Via illis fuit visio Dei.*" The journey of Faith is the vision of God.

As for the apparent contradiction between St. Paul and St. James about Faith and Works, Julius Hare is worth quoting. "Faith without works is the shadow of faith, not the substance. Why is this except that faith, if it be living, real, substantial, is a practical principle, a practical power; nay, of all powers and principles by which man can be actuated, the most practical, so that when it does not show forth its life by good works, we may reasonably conclude that it is dead, just as we infer that a body is dead when it has ceased to move, or a tree

when it puts forth no leaves." St. Paul would have fully accepted this.

In the Fourth Gospel, "Faith" is not used: the Evangelist avoids the word for the same reason that he avoids "knowledge" and "wisdom." These words had already become the shibboleths of parties in the Church. But the verb "to believe" is common, and the two meanings of intellectual conviction and moral self-surrender are about equally emphasized. Dr. Abbott says truly, "Believing (in this Gospel) is not a consummation or a goal, but a number of different stages, by which men pass towards the one Center, in which they are to have life."

Faith, you see, is a real venture, "the resolution to stand or fall by the noblest hypothesis." But though it begins as an experiment, it ends as an experience. *Solvitur ambulando*.

What is essential is that we should make the venture, keeping nothing back. The Stoic poet Manilius, who is so little read even by classical scholars, has two noble lines which are thoroughly Christian:

*Quid caelo dabimus? Quantum est quo veneat omne?  
Impendendus homo est, Deus esse ut possit in ipso.*

"A man must stake himself." Huxley is quoted as saying: "It does not take much of a man to be a Christian; but it takes all there is of him." This sounds a little disparaging; but perhaps a man who puts "all there is of him" into the greatest of all ventures is already a good deal of a man, and in the way to become more.

Of the early Church Fathers, we find already in Ignatius the fundamental Christian teaching that "Faith is the beginning, Love the end." And in the Clementine Recognitions there is a bold emphasis on the necessity of "adding to our faith knowledge." "He who has received truths fortified by reason can never lose them, whereas he who receives them without proofs, by simple assent, can neither keep them safely nor be sure that they are true."

But it is in Clement of Alexandria that we find the Christian conception of faith expounded most fully and most beau-

tifully. "Faith, which the Greeks despise as futile and barbarous, is a voluntary anticipation, the assent of piety, the substance of things hoped for, the evidence of things not seen, as the Apostle says. Others have defined faith as an uniting assent to an unseen object. And since choice is the beginning of action, faith is the beginning of action, being the foundation of rational choice, when a man sets before himself through faith the demonstration which he anticipates. Voluntarily to follow what is good is the beginning of understanding it. Unswerving choice, therefore, gives a great stimulus to knowledge. The exercise of faith becomes knowledge built on a sure foundation."

"We can learn nothing without a preconceived idea of what we are aiming at; faith is such a preconception." This is what the prophet meant by "Unless ye believe ye will not understand," or as Heraclitus says, "If you do not hope, you will not find what is beyond your hopes."

"Faith is the first movement towards salvation, after which fear and hope and repentance, in company with temperance and patience, lead us on to love and knowledge."

"Fear is the beginning of love. Fear develops into faith, and faith into love. But I do not fear my Father as I fear a wild beast; I fear and love Him at once. Blessed is he who has faith, which is compounded of love and fear."

"Faith," he says again, "is compendious knowledge, and knowledge is reasoned faith. Knowledge therefore is faithful, and faith is knowable."

At the time and place in which Clement wrote, Alexandria, at the beginning of the third century, faith and reason seemed to walk hand in hand. It was a happy time for Christian thinkers, like the great age of the Schoolmen. Now, on the other hand, we have deep problems to solve, and there are large readjustments to make. A strong faith accepts the task reverently and cheerfully; a weak faith hides behind tradition and tries to silence inquiry by authority. The future, do not doubt it, is with the strong faith.

There has always been a tendency among theologians to regard faith as an act of violence exercised by the will upon the intellect. The schoolboy who defined faith as "believing

what you know to be untrue" was only parodying the teaching which is sometimes given. Even Father Tyrrell says: "There is a sense of unreality, one might almost say of pretense, about these freely chosen beliefs. We hold to the belief in obedience to the command of God. But this will not prevent that seeming black to us which God tells us to be white. A certain sense of unreality is part of the trial of faith. The great mass of our beliefs are reversible, and are dependent for their stability on the action or permission of the will." This language is shocking to me. It implies a purely external revelation, commanding us in so many words to say that black is white. Faith cannot rest on bare authority. If a man or an institution tells me that it has been revealed by God that something is true, I must have another revelation before I can tell whether I ought to believe that a revelation has been made. This is not at all like the venture of faith of which I spoke just now.

Faith does not compel us to say that black is white. Its objects are not in the phenomenal world, but among the unseen things which are eternal.

Certain states of mind are incompatible with faith. The dull and stupid temper; the pessimistic temper; the skeptical temper; the ironical indifferent temper; the peevish and rebellious temper which Chaucer calls "the rotten sin of accidie"; the selfish and loveless temper, are all barriers against faith. If we are too stupid to ask for any meaning in our experience, too frivolous to care for what can only be cared for seriously, too self-absorbed to be interested in anything that does not concern our petty affairs, too gloomy to hope, or too willful to learn, we are laboring under fatal disqualifications for the life of faith.

What distinguishes faith from empirical knowledge is the recognition of an objective, independent, eternal standard of values, not given in our present experience, but by which all experience is to be judged. We may hope for a progressive verification of the judgments of faith as we advance in the spiritual life, just as, when we are climbing a mountain, we see more of the country the higher we mount. But the verification is never complete in this world; we could not expect it.

We had better not ask, What is the organ of faith? The

question smacks of the old discredited faculty-psychology, and it cannot be answered, because faith is an activity of the whole man. I mention this controversy only because some have identified faith with "pure feeling." There is no such thing as pure feeling, in which the will and intellect have no part; and the over-emphasis on emotional states leads to the wrong kind of mysticism. The spurious mystic craves for short cuts to communion with God; he thinks that he has reached the end of his journey when he has hardly begun it. Emotional, even hysterical religion is emphatically not what we wish to encourage. Think how absolutely alien the character and teaching of Christ were to this kind of piety. "Daughters of Jerusalem, weep not for me."

Spiritual "consolations" are sometimes sent by God to beginners. All the great spiritual guides warn us not to make much of them, nor to be troubled when they are withdrawn, as they probably will be. We are not to expect to *enjoy* God until our probation is over; if we are now and then "with Christ on the holy mount," the vision is meant to nerve us for some special task. All methods of stimulating religious emotion must be used sparingly, if at all. They draw off the vigor of the will and sometimes blunt the conscience. Religion was not meant to be an anodyne. We must face the difficulties and troubles of life squarely and with open eyes. Remember the words which Augustine heard Christ saying to him: "I am the food of the full-grown; be a man, and thou shalt feed upon me."

It is a difficult question whether rationalism, that is positive knowledge, has much place in the life of faith, except as checking the exuberance of the religious imagination. The study of nature in all its branches is of course a revelation of the nature and character of God under one at least of His supreme attributes, and I have myself no doubt that philosophy gives us a sound basis for a spiritual interpretation of reality. But how far can we agree with the official Roman Catholic apologetic that the existence of God may be demonstrated by the unaided light of human reason? The Vatican Council of 1870 pronounced that "*Si quis dixerit Deum unum et verum naturali rationis lumine certo cognosci non posse, anathema sit.*" All

depends on what we mean by the natural light of reason, and on what we mean by God. The sharp distinction between natural and supernatural is characteristic of Roman Catholicism; thinkers who are not Roman Catholics have generally repudiated it. I can find no room for it in my own creed. And I think myself that the Father of our Lord Jesus Christ can be "certainly known" only as the reward of a life of faith and discipline. The famous four proofs of God's existence are not valueless; in spite of Kant they may be stated in a very cogent form. But they do not establish the existence of the God of Christianity. It is not the logical faculty, but the "spirit in love" which finds in experience the God whom Christ came to reveal. "He that hath seen me hath seen the Father." If we like to call the beatific vision "the natural light of reason," I do not object, believing that our nature is "*capax deitatis*"; but one would like to know who are the opponents whom the Vatican Council wished to anathematize.

Rationalism, you observe, is as often orthodox as heretical. The so-called proofs from miracle and prophecy are rationalistic. Their main weakness is that if the facts could be substantiated, they would prove nothing which has any value for religion. Occasional interferences with the laws of nature would be very disturbing for science, but they would not help faith at all. There is an odd notion that the exceptional is the important. If the exceptional tests (not "proves") a rule, it must be taken into account; if it merely breaks a rule, it is of no importance for those who have to live under the rule. We need not trouble ourselves about the course of a comet which, after crossing our system once, has vanished into space.

St. Paul's words about faith and reason are worth pondering over. "My speech and preaching were not in persuasive words of wisdom, but in demonstration of the Spirit and of power; that your faith should not stand in the wisdom of men but in the power of God. Howbeit we speak wisdom among them that are perfect; yet a wisdom not of this world . . . but we speak the wisdom of God in a mystery, even the wisdom that hath been hidden, which God foreordained before the world unto our glory." Spiritual wisdom, you see, is unchanging and

eternal; it is communicated to us "in types and shadows dim," until we grow up into the power of apprehending it. Those who are "perfect"—full-grown—can understand it. This wisdom is something very different from the dry rationalism, whether orthodox or deistic, of the eighteenth century. The writers of this period, on both sides of the controversy, had forgotten the meaning of faith. They wanted to prove faith, not experimentally but logically. This is just what cannot be done. They wanted to find a place for God in their scheme. But God is too big to be fitted into a frame. He is not one of the factors for which science has to account.

The Vatican Council seems to declare that atheism is unthinkable or illogical. I do not think it is this; it is only "absurd," in Lotze's sense of the word. It is absurd, because it reduces the world to a chaos, a malignant trick, or a sorry joke. But we cannot get on in any science or any art or any serious pursuit without postulating that the world is none of these things. It has been said that in every philosophy a point is reached where a man must trust himself. This is to admit that even in purely secular studies and enterprises we must perform an act of faith. How this works in actual science we may illustrate from the following words of Professor Huxley: "Sit down before fact as a little child, be prepared to give up every preconceived notion, to follow humbly wherever and to whatever abysses Nature leads you, or you shall learn nothing." I do not know whether the Professor realized what a great act of faith he was performing in affirming this principle. The man of science has faith that the real is rational, and sits down like a little child to find out by experiment all that this means. The religious man has faith that the real is spiritual, and sits down like a little child to find out all that this means. In both cases wisdom is justified of her children

# ANDREW LANG

## HOW TO FAIL IN LITERATURE

Lecture by Andrew Lang, author and critic (born in Selkirk, Scotland, 1844; died 1912), delivered in the South Kensington Museum, London, in aid of the college for working men and women. In his preface to the small volume in which this lecture subsequently appeared (in 1890), Mr. Lang says that it was printed at the request of his publishers, "who believe, perhaps erroneously, that some of the few authors who were not present may be glad to study the advice proffered"; that it had been rewritten, "and like the kiss which the Lady returned to Rudolphe, is *revu, corrigé, et considérablement augmenté*." It is here somewhat abridged.

LADIES AND GENTLEMEN:—What should be a man's or a woman's reason for taking literature as a vocation, what sort of success ought they to desire, what sort of ambition should possess them? These are natural questions, now that so many readers exist in the world, all asking for something new, now that so many writers are making their pens "in running to devour the way" over so many acres of foolscap. The legitimate reasons for enlisting (too often without receiving the shilling) in this army of writers are not far to seek. A man may be convinced that he has useful, or beautiful, or entertaining ideas within him, he may hold that he can express them in fresh and charming language. He may, in short, have a "vocation," or feel conscious of a vocation, which is not exactly the same thing. There are "many thyrsus bearers, few mystics"; many are called, few chosen. Still, to be sensible of a vocation is something, nay, is much for most of us drift without any particular aim or predominant purpose. Nobody can justly censure people whose chief interest is in letters, whose chief pleasure is in study or composition, who rejoice in a fine sentence as others do in a well-modeled limb, or a delicately

touched landscape, nobody can censure them for trying their fortunes in literature. Most of them will fail, for, as the book-seller's young man told an author once, they have the poetic temperament, without the poetic power. Still among these whom "Pendennis" has tempted, in boyhood, to run away from school to literature as Marryat has tempted others to run away to sea, there must be some who will succeed. But an early and intense ambition is not everything, any more than a capacity for taking pains is everything in literature or in any art.

But the following remarks on How to Fail in Literature are certainly meant to discourage nobody ~~who~~ loves books, and has an ample impulse to tell a story, or to try a song or a sermon. Discouragements enough exist in the pursuit of this, as of all arts, crafts, and professions, without my adding to them. Famine and Fear crouch by the portals of literature as they crouch at the gates of the Virgilian Hades. There is no more frequent cause of failure than doubt and dread; a beginner can scarcely put his heart and strength into a work when he knows how long are the odds against his victory, how difficult it is for a new man to win a hearing, even though all editors and publishers are ever pining for a new man. The young fellow, unknown and unwelcomed, who can sit down and give all his best of knowledge, observation, humor, care, and fancy to a considerable work has got courage in no common portion; he deserves to triumph, and certainly should not be disheartened by our old experience. But there be few beginners of this mark, most begin so feebly because they begin so fearfully. They are already too discouraged, and can scarce do themselves justice. It is easier to write more or less well and agreeably when you are certain of being published and paid at least, than to write well when a dozen rejected manuscripts are cowering (as Theocritus says) in your chest, bowing their pale faces over their chilly knees, outcast, hungry, repulsed from many a door.

One thing, perhaps, most people who succeed in letters so far as to keep themselves alive and clothed by their pens will admit, namely, that their early rejected manuscripts deserved to be rejected. A few days ago there came to the writer an old forgotten beginner's attempt by himself. Whence it came,

who sent it, he knows not; he had forgotten its very existence. He read it with curiosity; it was written in a very much better hand than his present scrawl, and was perfectly legible. But readable it was not. There was a great deal of work in it, on an out of the way topic, and the ideas were perhaps not quite without novelty at the time of its composition. But it was cramped and thin, and hesitating between several manners; above all it was uncommonly dull. If it ever was sent to an editor, as I presume it must have been, that editor was trebly justified in declining it. On the other hand, to be egotistic, I have known editors reject the attempts of those old days, and afterward express lively delight in them when they struggled into print, somehow, somewhere. These worthy men did not even know that they had despised and refused what they came afterward rather to enjoy.

Editors and publishers, these keepers of the gates of success, are not infallible, but their opinion of a beginner's work is far more correct than his own can ever be. They should not depress him quite, but if they are long unanimous in holding him cheap, he is warned, and had better withdraw from the struggle. He is either incompetent, or he has the makings of a Browning. He is a genius born too soon. He may readily calculate the chances in favor of either alternative.

So much by way of not damping all neophytes equally; so much we may say about success before talking of the easy ways that lead to failure. And by success here is meant no glorious triumph; the laurels are not in our thoughts, nor the enormous opulence (about a fourth of a fortunate barrister's gains) which falls in the lap of a Dickens or Trollope. Faint and fleeting praise, a crown with as many prickles as roses, a modest hard-gained competence, a good deal of envy, a great deal of gossip—these are the rewards of genius which constitute a modern literary success. Not to reach the moderate competence in literature is, for a professional man of letters of all work, something like a failure. But in poetry to-day, a man may succeed, as far as his art goes, and yet may be unread, and may publish at his own expense, or not publish at all. He pleases himself, and a very tiny audience: I do not call that failure. I regard failure as the goal of ignorance, incompetence, lack of common

sense, conceited dullness, and certain practical blunders now to be explained and defined.

The most ambitious may accept, without distrust, the following advice as to How to Fail in Literature. The advice is offered by a mere critic, and it is an axiom of the Arts that the critics "are the fellows who have failed," or have not succeeded. The persons who really can paint, or play, or compose seldom tell us how it is done, still less do they review the performances of their contemporaries. That invidious task they leave to the unsuccessful novelists. The instruction, the advice are offered by the persons who cannot achieve performance.

In the following remarks some broad general principles, making disaster almost inevitable, will first be offered, and then special methods of failing in all special departments of letters will be ungrudgingly communicated. It is not enough to attain failure, we should deserve it. The writer, by way of insuring complete confidence, would modestly mention that he has had ample opportunities of study in this branch of knowledge. While sifting for five or six years the volunteered contributions to a popular periodical, he has received and considered some hundredweights of manuscript. In all these myriads contributions he has not found thirty pieces which rose even to the ordinary dead-level of magazine work. He has thus enjoyed unrivaled chances of examining such modes of missing success as spontaneously occur to the human intellect, to the unaided ingenuity of men, women, and children.

He who would fail in literature cannot begin too early to neglect his education, and to adopt every opportunity of not observing life and character. None of us is so young but that he may make himself perfect in writing an illegible hand. This method, I am bound to say, is too frequently overlooked. Most manuscripts by ardent literary volunteers are fairly legible. On the other hand there are novelists, especially ladies, who not only write a hand wholly declining to let itself be deciphered, but who fill up the margins with interpolations, who write between the lines, and who cover the page with scratches running this way and that, intended to direct attention to after-thoughts inserted here and there in corners and on the backs of sheets. To pin in scraps of closely written paper and backs of

envelopes adds to the security for failure, and produces a rich anger in the publisher's reader or the editor.

The cultivation of a bad handwriting is an elementary precaution, often overlooked. Few need to be warned against having their manuscripts typewritten; this gives them a chance of being read with ease and interest, and this must be neglected by all who have really set their hearts on failure. In the higher matters of education it is well to be as ignorant as possible. No knowledge comes amiss to the true man of letters, so they who court disaster should know as little as may be.

Mr. Stevenson has told the attentive world how, in boyhood, he practiced himself in studying and imitating the styles of famous authors of every age. He who aims at failure must never think of style, and should sedulously abstain from reading Shakespeare, Bacon, Hooker, Walton, Gibbon, and other English and foreign classics. He can hardly be too reckless of grammar, and should always place adverbs and other words between "to" and the infinitive, thus: "Hubert was determined to energetically and on all possible occasions oppose any attempt to entangle him with such." Here, it will be noticed, "such" is used as a pronoun, a delightful flower of speech not to be disregarded by authors who would fail.

But some one may reply that several of our most popular novelists revel in this kind of grammar which I am recommending. This is undeniable, but certain people manage to succeed in spite of their own earnest endeavors and startling demerits. There is no royal road to failure. There is no rule without its exception, and it may be urged that the works of the gentlemen and ladies who "break Priscian's head"—as they would say themselves—may be successful, but are not literature. Now it is about literature that we are speaking.

In the matter of style, there is another excellent way. You need not neglect it, but you may study it wrongly. You may be affectedly self-conscious, you may imitate the ingenious persons who carefully avoid the natural word, the spontaneous phrase, and employ some other set of terms which can hardly be construed. You may use, like a young essayist whom I have lovingly observed, a proportion of eighty adjectives to every sixty-five words of all denominations. You may hunt

for odd words, and thrust them into the wrong places, as where you say that a man's nose is "beetling," that the sun sank in "a caldron of daffodil chaos," and the like. You may use common words in an unwonted sense, keeping some private interpretation clearly before you. Thus you may speak if you like to write partly in the tongue of Hellas, about "assimulating the ethos" of a work of art, and so write that people shall think of the processes of digestion. You may speak of "exhausting the beauty" of a landscape, and, somehow, convey the notion of sucking an orange dry. Or you may wildly mix your metaphors, as when a critic accuses Mr. Browning of "giving the iridescence of the poetic afflatus," as if the poetic afflatus were blown through a pipe, into soap, and produced soap-bubbles. This is a more troublesome method than the mere picking up of every newspaper commonplace that floats into your mind, but it is equally certain to lead—where you want to go. By combining the two fashions a great deal may be done. Thus you want to describe a fire at sea, and you say "the devouring element lapped the quivering spars, the mast, and the sea-shouldering keel of the doomed *Mary Jane* in one coruscating catastrophe. The sea deeps were incarnadined to an alarming extent by the flames, and to escape from such many plunged headlong in their watery bier."

As a rule, authors who would fail stick to one bad sort of writing; either to the newspaper commonplace, or to the out of the way and inappropriate epithets, or to the common word with a twist on it. But there are examples of the combined method, as when we call the trees round a man's house his "domestic boscaje." This combination is difficult, but perfect for its purpose. You cannot write worse than "such." To attain perfection the young aspirant should confine his reading to the newspapers (carefully selecting his newspapers, for many of them will not help him to write ill) and to those modern authors who are most praised for their style by the people who know least about the matter. Words like "fictional" and "fictive" are distinctly to be recommended, and there are epithets such as "weird," "strange," "wild," "intimate," and the rest, which blend pleasantly with "all the time" for "always"; "back of" for "behind"; "belong with" for "belong to"; "live like I

do" for "as I do." The authors who combine those charms are rare, but we can strive to be among them.

On the subject of style another hint may be offered. Style may be good in itself, but inappropriate to the subject. For example, style which may be excellently adapted to a theological essay, may be but ill-suited for a dialogue in a novel. There are subjects of which the poet says:—

*Ornari res ipsa vetat, contenta doceri.*

The matter declines to be adorned, and is content with being clearly stated. I do not know what would occur if the writer of the Money Article in the *Times* treated his topic with reckless gayety. Probably that number of the journal in which the essay appeared would have a large sale, but the author might achieve professional failure in the office. On the whole it may not be the wiser plan to write about the Origins of Religion in the style which might suit a study of the life of ballet-dancers; the two MM. Halévy, the learned and the popular, would make a blunder if they exchanged styles. Yet Gibbon never denies himself a jest, and Montesquieu's *Esprit des Lois* was called *L'Esprit sur les Lois*. M. Renan's *Histoire d'Israel* may almost be called skittish. The French are more tolerant of those excesses than the English. It is a digression, but he who would fail can reach his end by not taking himself seriously. If he gives himself no important airs, whether out of a freakish humor or real humility, depend upon it the public and the critics will take him at something under his own estimate. On the other hand, by copying the gravity of demeanor admired by Mr. Shandy in a celebrated parochial animal, even a very dull person may succeed in winning no inconsiderable reputation.

The allusive style has its proper place, like another, if it is used by the right man, and the concentrated and structural style has also its higher province. It would not do to employ either style in the wrong place. In a rambling discursive essay, for example, a mere straying after the bird in the branches, or the thorn in the way, he might not take the safest

road who imitated Mr. Pater's style in what follows: "In this way, according to the well-known saying, 'The style is the man, complex or simple, in his individuality, his plenary sense of what he really has to say, his sense of the world: all cautions regarding style arising out of so many natural scruples as to the medium through which alone he can expose that inward sense of things, the purity of this medium, its laws or tricks of refraction: nothing is to be left there which might give conveyance to any matter save that.'"

Clearly the author who has to write so that the man may read who runs will fail if he wrests this manner from its proper place, and uses it for casual articles: he will fail to hold the vagrom attention!

So much for style, of which it may generally be said that you cannot be too obscure, unnatural, involved, vulgar, slipshod, and metaphorical. See to it that your metaphors are mixed, though, perhaps, this attention is hardly needed. The free use of parentheses, in which a reader gets lost, and of unintelligible allusions, and of references to unread authors—the Kalevala and Lycophron, and the Scholiast on Apollonius Rhodius—is invaluable to this end. So much for manner, and now for matter.

The young author generally writes because he wants to write, either for money, from vanity, or in mere weariness of empty hours and anxiety to astonish his relations. This is well, he who would fail cannot begin better than by having nothing to say. The less you observe, the less you reflect, the less you put yourself in the paths of adventure and experience, the less you will have to say, and the more impossible will it be to read your work. Never notice people's manner, conduct, nor even dress, in real life. Walk through the world with your eyes and ears closed, and embody the negative results in a story or a poem. As to poetry, with a fine instinct we generally begin by writing verse, because verse is the last thing that the public want to read. The young writer has usually read a great deal of verse, however, and most of it bad. His favorite authors are the bright lyristes who sing of broken hearts, wasted lives, early deaths, disappointment, gloom. Without having even

had an unlucky flirtation, or without knowing what it is to lose a favorite cat, the early author pours forth laments, just like the laments he has been reading. He has too a favorite manner, the old consumptive manner, about the hectic flush, the fatal rose on the pallid cheek, about the ruined roof-tree, the empty chair, the rest in the village churchyard. This is now a little *rococo* and forlorn, but failure may be assured by traveling in this direction. If you are ambitious to disgust an editor at once, begin your poem with "Only." In fact you may as well head the lyric "Only."—

## ONLY

Only a spark of an ember,  
Only a leaf on the tree,  
Only the days we remember,  
Only the days without thee.  
Only the flower that thou worst  
Only the book that we read,  
Only that night in the forest,  
Only a dream of the dead,  
Only the troth that was broken,  
Only the heart that is lonely,  
Only the sigh and the token  
That sob in the saying of Only!

In literature this is a certain way of failing, but I believe a person might make a livelihood by writing verses like these—for music.

If you are not satisfied with these simple ways of not succeeding, please try the Grosvenor Gallery style. Here the great point is to make the rhyme arrive at the end of a very long word; you should also be free with your alliterations:—

## LULLABY

When the somber night is dumb,  
Hushed the loud chrysanthemum,  
Sister, sleep!  
Sleep, the lissom lily saith  
Sleep, the poplar whispereth,  
Soft and deep!

Filmy floats the wild woodbine  
 Jonquil, jacinth, jessamine,  
     Float and flow.

Sleeps the water wild and wan,  
 As in far-off Toltecan,  
     Mexico.

See, upon the sun-dial,  
 Waves the midnight's misty pall,  
     Waves and wakes,  
 As, in tropic Timbuctoo,  
 Water beasts go plashing through  
     Lilied lakes!

Alliteration is a splendid source of failure in this sort of poetry, and adjectives like lissom, filmy, weary, weird, strange, make, or ought to make, the rejection of your manuscript a certainty. The poem should, as a rule, seem to be addressed to an unknown person, and should express regret and despair for circumstances in the past with which the reader is totally unacquainted. Thus:—

### GHOSTS

We met at length, as Souls that sit,  
 At funeral feast, and taste of it,  
 And empty were the words we said,  
 As fits the converse of the dead.  
 For it is long ago, my dear,  
 Since we two met in living cheer,  
 Yea, we have long been ghosts, you know  
 And alien ways we twain must go,  
 Nor shall we meet in Shadow Land,  
 Till Time's glass, empty of its sand  
 Is filled up of Eternity.  
 Farewell—enough for once to die—  
 And far too much it is to dream,  
 And taste not the Lethean stream,  
 But bear the pain of loves unwed,  
 Even here, even here, among the dead!

That is a cheerful, intelligible kind of melody, which is often

practiced with satisfactory results. Every form of imitation (imitating of course only the faults of a favorite writer) is to be recommended.

Imitation does a double service: it secures the failure of the imitator and also aids that of the unlucky author who is imitated. As soon as a new thing appears in literature, many people hurry off to attempt something of the same sort. It may be a particular trait and accent in poetry, and the public, weary of the mimicries, begin to dislike the original.

Most can grow the flowers now,  
For all have got the seed;  
And once again the people  
Call it but a weed.

In fiction, if somebody brings in a curious kind of murder, or a study of religious problems, or a treasure hunt, or what you will, others imitate till the world is weary of murders, or theological flirtations, or the search for buried specie, and the original authors themselves will fail, unless they fish out something new, to be vulgarized afresh. Therefore, imitation is distinctly to be urged on the young author.

As a rule, his method is this: He reads very little, but all that he reads is bad. The feeblest articles in the weakest magazines, the very mildest and most conventional novels, appear to be the only studies of the majority. Apparently the would-be contributor says to himself, or herself, "Well I can do something almost on the level of this or that maudlin and invertebrate novel." Then he deliberately sits down to rival the most tame, dull, and illiterate compositions that get into print. In this way bad authors become the literary parents of worse authors. Nobody but a reader of manuscripts knows what myriads of fiction are written without one single new situation, original character, or fresh thought. The most out-worn ideas, — sudden loss of fortune, struggles, faithlessness of first lover, noble conduct of second lover, frivolity of younger sister, excellence of mother, naughtiness of one son, virtue of another, — these are habitually served up again and again. On the sprained ankles, the mad bulls, the fires, and other simple de-

vices for doing without an introduction between hero and heroine I need not dwell. The very youngest of us is acquainted with these expedients, which by this time of day, will spell failure.

The common novels of governess life, the daughters and granddaughters of Jane Eyre, still run riot among the rejected manuscripts. The lively, large family, all very untidy and humorous, all wearing each other's boots and gloves, and making their dresses out of bedroom curtains and marrying rich men, still rushes down the easy descent to failure. The skeptical curate is at large, and is disbelieving in everything except the virtues of the young woman who "has a history." Mr. Swinburne hopes that one day the last unbelieving clergyman will disappear in the embrace of the last immaculate Magdalen as the Princess and the Geni burn each other to nothingness, in the "Arabian Nights." On that happy day there will be one less of the roads leading to failure. If the pair can carry with them the self-sacrificing characters who take the blame of all the felonies that they did not do, and the nice girl who is jilted by the poet, and finds that the squire was the person whom she really loved, so much the better. If not only Monte Carlo, but the inevitable scene in the rooms there can be abolished; if the Riviera and Italy can be removed from the map of Europe as used by the novelists, so much the better. But failure will always be secured while the huge majority of authors do not aim high, but aim at being a little lower than the last domestic drivel which came out in three volumes, or the last analysis of the inmost self of some introspective young girl which crossed the water from the States.

These are general counsels, and apply to the production of books. But, when you have done your book, you may play a number of silly tricks with your manuscript. I have already advised you to make only one copy, a rough one, as that secures negligence in your work, and also disgusts an editor or reader. It has another advantage, you may lose your copy altogether, and, as you have not another, no failure can be more complete. The best way of losing it, I think, and the safest, is to give it to somebody you know who has once met some man or woman of letters. This somebody must be instructed to ask that

busy and perhaps casual and untidy person to read your manuscript, and "place" it—that is, induce some poor publisher or editor to pay for and publish it. Now the man, or woman of letters, will use violent language on receiving your clumsy brown-paper parcel of illegible wares, because he or she has no more to do with the matter than the crossing sweeper. The manuscript will either be put away so carefully that it can never be found again, or will be left lying about so that the housemaid may use it for her own domestic purposes, like Betty Barnes, the cook of Mr. Warburton, who seems to have burned several plays of Shakespeare.

The manuscript in short will go where the old moons go.

And all dead days drift thither,  
And all disastrous things.

Not only can you secure failure thus yourself, but you can so worry and badger your luckless victim, that he too will be unable to write well till he has forgotten you and your novel, and all the annoyance and anxiety you have given him. Much may be done by asking him for "introductions" to an editor or publisher. These gentry don't want introductions, they want good books, and very seldom get them. If you behave thus, the man whom you are boring will write to his publisher:—

DEAR BROWN:—A wretched creature, who knows my great-aunt, asks me to recommend his rubbish to you. I send it by to-day's post, and I wish you joy of it.

This kind of introduction will do you excellent service in smoothing the path to failure. You can arrive at similar results by sending your manuscript not to the editor of this or that magazine, but to some one who, as you have been told by some nincompoop, is the editor, and who is not. He may lose your book, or he may let it lie about for months, or he may send it on at once to the real editor with his bitter malison. The utmost possible vexation is thus inflicted on every hand, and a prejudice is established against you which the nature of your work is very unlikely to overcome. By all means bore

many literary strangers with correspondence; this will give them a lively recollection of your name, and an intense desire to do you a bad turn if opportunity arises.

If your book does, in spite of all, get itself published, send it with your compliments to the critics and ask them for favorable reviews. It is the publisher's business to send out books to the editors of critical papers, but never mind that. Go on telling critics that you know praise is only given by favor, that they are all more or less venal and corrupt and members of the Something Club, add that you are no member of a coterie or clique, but that you hope an exception will be made, and that your volume will be applauded on its merits. You will thus have done what in you lies to secure silence from reviewers, and to make them request that your story may be sent to some other critic. This, again, gives trouble, and makes people detest you and your performance, and contributes to the end which you have steadily in view.

I do not think it is necessary to warn young lady novelists, who possess beauty, wealth, and titles, against asking reviewers to dine, and treating them as kindly, almost, as the Fairy Pari-banou treated Prince Ahmed. They only act thus, I fear, in Mr. William Black's novels.

Much may be done by re-writing your book on the proof-sheets, correcting everything there which you should have corrected in manuscript. This is an expensive process, and will greatly diminish your pecuniary gains, or rather will add to your publisher's bill, for the odds are that you will have to publish at your own expense. By the way, an author can make almost a certainty of disastrous failure, by carrying to some small obscure publisher a work which has been rejected by the best people in the trade. Their rejections all but demonstrate that your book is worthless. If you think you are likely to make a good thing by employing an obscure publisher, with little or no capital, then as some one in Thucydides remarks, congratulating you on your simplicity, I do not envy your want of common sense. Be very careful to enter into a perfectly preposterous agreement. For example, accept "half profits," but forget to observe that, before these are reckoned, it is distinctly stated in your "agreement" that the publisher is to pay himself

some twenty per cent on the price of each copy sold before you get your share.

Here is "another way," as the cookery books have it. In your gratitude to your first publisher, covenant with him to let him have all the cheap editions of your novels for the next five years, at his own terms. If, in spite of the advice I have given you, you somehow manage to succeed, to become wildly popular, you will still have reserved to yourself, by this ingenious clause, a chance of ineffable pecuniary failure. A plan generally approved of is to sell your entire copyright in your book for a very small sum. You want the ready money, and perhaps you are not very hopeful. But, when your book is in all men's hands, when you are daily reviled by the small fry of paragraphers, when the publisher is clearing a thousand a year by it, while you only get a hundred down, then you will thank me, and will acknowledge that, in spite of apparent success, you are a failure after all.

There are publishers, however, so inconsiderate that they will not leave you even this consolation. Finding that the book they bought cheap is really valuable, they will insist on sharing the profits with the author, or on making him great presents of money to which he has no legal claim. Some persons, some authors, cannot fail if they would, so wayward is fortune, and such a Quixotic idea of honesty have some middlemen of literature. But, of course, you may light on a publisher who will not give you more than you covenanted for, and then you can go about denouncing the whole profession as a congregation of robbers and clerks of St. Nicholas.

It is a minor, though valuable scheme, to send poems on Christmas to magazines about the beginning of December, because in fact, editors have laid in their stock of that kind of thing earlier. Always insist on seeing the editor, instead of writing to him. There is nothing he hates so much, unless you are very young and beautiful indeed, when, perhaps, if you wish to fail you had better not pay him a visit at the office. Even if you do, even if you were as fair as the Golden Helen, he is not likely to put in your compositions if, as is probable, they fall much below the level of his magazine.

Advice on how to secure the reverse of success should not

be given to young authors alone. Their kinsfolk and friends, also, can do much for their aid. A lady who feels a taste for writing is very seldom allowed to have a quiet room, a quiet study. If she retreats to her chill and fireless bed-chamber, even there she may be chevied by her brothers, sisters, and mother. It is noticed that cousins and aunts, especially aunts, are of high service in this regard. They never give an intelligent woman an hour to herself.

"Is Miss Mary in?"

"Yes, ma'am, but she is very busy."

"Oh, she won't mind me, I don't mean to stay long."

Then in rushes the aunt.

"Over your books again, my dear! You really should not overwork yourself. Writing something?" Here the aunt clutches the manuscript, and looks at it vaguely.

"Well, I dare say it's very clever, but I don't care for this kind of thing myself. Where's your mother? Is Jane better? Now, do tell me, do you get much for writing all that? Do you send it to the printers, or where? How interesting! And that reminds me, you that are a novelist, have you heard how shamefully Miss Baxter was treated by Captain Smith? No? Well you might make something out of it."

Here follows the anecdote, at prodigious length, and perfectly incoherent.

"Now, write that, and I shall always say I was partly the author. You really should give me a commission, you know. Well, good-by, tell your mother I called. Why, there she is, I declare. Oh, Susan, just come and hear the delightful plot for a novel that I have been giving Mary."

And then she begins again, only further back, this time.

It is thus that the aunts of England may and do assist their nieces to fail in literature. Many and many a morning do they waste, many a promising fancy have they blighted, many a temper have they spoiled.

Sisters are rather more sympathetic: The favorite plan of the brother is to say, "Now, Mary, read us your new chapter."

Mary reads it, and the critic exclaims, "Well, of all the awful rot! Now, why can't you do something like Bootles' Baby?"

Fathers never take an interest in the business at all: they

do not count. The sympathy of a mother may be reckoned on, but not her judgment, for she is either wildly favorable, or, mistrusting her own tendencies, is more diffident than need be. The most that relations can do for the end before us is to worry, interrupt, deride, and tease the literary member of the family. They seldom fail in these duties, and not even success, as a rule, can persuade them that there is anything in it but "luck."

If anyone has kindly attended to this discourse, without desiring to be a failure, he has only to turn the advice outside in. He has only to be studious of the very best literature, observant, careful, original, he has only to be himself and not an imitator, to aim at excellence, and not be content with falling a little lower than mediocrity. He needs but bestow the same attention on this art as others give to the other arts and other professions. With these efforts, and with a native and natural gift, which can never be taught, never communicated, and with his mind set not on his reward but on excellence, on style, on matter, and even on the not wholly unimportant virtue of vivacity, a man will succeed, or will deserve success. First, of course, he will have to "find" himself, as the French say, and if he does not find an ass, then, like Saul the son of Kish, he may discover a kingdom. One success he can hardly miss, the happiness of living, not with trash, but among good books, and "the mighty minds of old."

In an unpublished letter of Mr. Thackeray's, written before he was famous, and a novelist, he says how much he likes writing on historical subjects, and how he enjoys historical research. "The work is so gentlemanly," he remarks. Often and often, after the daily dreadful lines, the bread and butter winning lines on some contemporary folly or frivolity, does a man take up some piece of work hopelessly unremunerative, foredoomed to failure as far as money or fame go, some dealing with the classics of the world, Homer or Aristotle, Lucian or Molière. It is like a bath after a day's toil, it is tonic and clean; and such studies, if not necessary to success, are, at least, conducive to mental health and self-respect in literature.

To the enormous majority of persons who risk themselves in literature, not even the smallest measure of success can fall.

They had better take to some other profession as quickly as may be, they are only making a sure thing of disappointment, only crowding the narrow gates of fortune and fame. Yet there are others to whom success, though easily within their reach, does not seem a thing to be grasped at.

Of two such, the pathetic story may be read, in the memoir of a Scotch Probationer, Mr. Thomas Davidson, who died young, an unplaced minister of the United Presbyterian Church in 1869. He died young, unaccepted by the world, unheard of, uncomplaining, soon after writing his latest song on the first gray hairs of the lady whom he loved. And she, Miss Alison Dunlop, died also, a year ago, leaving a little work newly published, "Anent Old Edinburgh," in which is briefly told the story of her life. There can hardly be a true tale more brave and honorable, for those two were eminently qualified to shine with a clear and modest radiance, in letters. Both had a touch of poetry, Mr. Davidson left a few genuine poems, both had humor, knowledge, patience, industry, and literary conscientiousness. No success came to them, they did not even seek it, though it was easily within the reach of their powers. Yet none can call them failures, leaving, as they did, the fragrance of honorable and uncomplaining lives, and such brief records of these as to delight, and console, and encourage us all. They bequeath to us the spectacle of a real triumph far beyond the petty gains of money or of applause, the spectacle of lives made happy by literature, unvexed by notoriety, unfretted by envy.

What we call success could never have yielded them so much, for the ways of authorship are dusty and stony, and the stones are only too handy for throwing at the few that, deservedly or undeservedly, make a name, and therewith about one-tenth of the wealth which is ungrudged to physicians, or barristers, or stock-brokers, or dentists, or electricians. If literature and occupation with letters were not its own reward, truly they who seem to succeed might envy those who fail. It is not wealth that they win, as fortunate men in other professions count wealth; it is not rank nor fashion that come to their call nor come to call on them. Their success is to be let dwell with their own fancies, or with the imaginations of others far greater

than themselves; their success is this living in fantasy, a little remote from the hubbub and the contests of the world. At the best they will be vexed by curious eyes and idle tongues, at the best they will die not rich in this world's goods, yet not unconsoled by the friendships which they win among men and women whose faces they will never see. They may well be content, and thrice content, with their lot, yet it is not a lot which should provoke envy, nor be coveted by ambition.

It is not an easy goal to attain, as the crowd of aspirants dream, nor is the reward luxurious when it is attained. A garland, usually fading and not immortal, has to be run for, not without dust and heat.

# ARTHUR DEHON LITTLE

## THE FIFTH ESTATE

Arthur D. Little, ex-president of both the American Chemical Society and the American Institute of Chemical Engineers, is one of the leaders of his profession in this country. In the following address he claims for our scientists not merely a place in the professions but a place as one of the great estates essential in a commonwealth. This address was delivered in connection with the centenary celebration of the Franklin Institute and the inauguration exercises of the Bartol Research Foundation, September 19, 1924.

BENJAMIN FRANKLIN was not perhaps in all respects a paragon, but he was unquestionably a polygon—a plain figure with many sides and angles. There were not enough buttons on his black coat to tell off the multifarious aspects in which his complex personality was presented to the world. He was craftsman and tradesman; philosopher and publicist; diplomat, statesman, and patriot. And he was, withal, a very human being. What concerns us particularly on this occasion is the fact that he was at once philosopher and man of affairs. His remarkable career should refute forever the fallacy which, unfortunately, still is current, that the man of science is temperamentally unfitted for the practical business of life.

At the time when Franklin was in England the British Parliament was assumed to be composed of representatives of three estates: the lords spiritual, the lords temporal, and the commons; but Edmund Burke, pointing to the Reporters' Gallery, said, "There sits a *Fourth Estate*, more important far than they all." No one at all familiar with the ubiquitous influence and all-pervading power of the press would to-day question the

Reprinted by permission of the author from *The Journal of the Franklin Institute* and *The Atlantic Monthly*.

validity of Burke's appraisal. Even then, however, there was present in England, in the person of Benjamin Franklin, a prototype and exemplar of the membership of a *Fifth Estate*, an estate destined to play an even greater part than its predecessors in the remaking of the world.

This Fifth Estate is composed of those having the simplicity to wonder, the ability to question, the power to generalize, the capacity to apply. It is, in short, the company of thinkers, workers, expounders, and practitioners upon which the world is absolutely dependent for the preservation and advancement of that organized knowledge which we call Science. It is their seeing eye that discloses, as Carlyle said, "the inner harmony of things; what Nature meant." It is they who bring the power and the fruits of knowledge to the multitude who are content to go through life without thinking and without questioning, who accept fire and the hatching of an egg, the attraction of a feather by a bit of amber, and the stars in their courses, as a fish accepts the ocean.

The curious deterioration to which words are subject has left us with no term in good repute and common usage by which the members of the Fifth Estate may properly be characterized. Sophists are no longer distinguished for wisdom, they are now fallacious reasoners. Philosophers, who once claimed all knowledge for their province, are now content with speculative metaphysics. Scholars have become pupils. The absent-minded and myopic professor is a standardized property of the stage and screen. The expert, if not under a cloud, is at least standing in the shade. In Boston one hesitates to call a professional man a scientist—he may be a Presbyterian; and a "sage," as an anonymous writer has pointed out, "calls up in the average mind the picture of something gray and pedantic, if not green and aromatic." Let us, therefore, for a time at least, escape these derogations and identify ourselves as members of the Fifth Estate. Although the brotherhood of the Estate is open to all the world, its effective membership nowhere comprises more than an insignificant proportion of the population. Two hundred and fifty constitute the membership of the National Academy of Sciences. The latest edition of *American Men of Science* includes only about 9500 names. The

number is expanded to 12,000 on the roll of the American Association for the Advancement of Science. Although gathered from all countries—and though chemistry is one of the most active and inclusive sciences—the chemical papers, books, and patents reviewed in *Chemical Abstracts* in 1923 were the product of about 22,000 workers. One may hazard the estimate that there are not in all the world 100,000 persons whose creative effort is responsible for the advancement of science.

The studies of Cattell indicate that in America, at least, the great majority of men of science come from the so-called middle and upper classes, or precisely those sections of society which, in Russia, have been practically exterminated in the name of the new Social Justice. In about two-thirds of Cattell's reported cases both parents were American-born, while the fathers of nearly one-half were professional men. Seventy-five per cent depend upon the universities for support; from which we may assume that the burden of the higher surtaxes does not bear heavily upon the Fifth Estate.

In proportion to population the cities have produced twice as many scientific men as the country, but how many hearts "once pregnant with celestial fire" repose in country churchyards because of lack of opportunity and absence of the stimulus of contact cannot, of course, be known, nor can we tell how many brains, competent and well equipped to penetrate the mysteries of nature, the war has cost the world.

Initiative is one of the rarest mental qualities, yet without it progress is impossible. Its combination with the scientific imagination and command of fact is still rarer and more precious. Since comparatively few of those who study science develop the capacity to extend its borders, the cost of a man competent to advance science has been estimated at \$500,000 and his value to the community set at a far greater figure. Full membership in the Fifth Estate thus seems to involve the highest initiation-fee on record. It is a figure disconcerting to the candidate, but as Wiggam has finely said: "Only genius can create science, but the humblest man can be taught its spirit. He can learn to face truth."

That the Fifth Estate is not better appreciated or always understood by the world at large is not surprising. In their

endeavors to secure accuracy of definition and expression its members have evolved a preposterous and terrifying language of their own. It is not ideally adapted to the interchange of confidences in ordinary human intercourse. It does not lend itself to poetry. "Ladybird, ladybird, fly away home" becomes impossible when one is forced to address the prettily spotted beetle as *Coccinella dipunctata*. A primrose by the river's brim is much more than a yellow primrose to the botanist: it is a specimen of *Primula vulgaris*. The organic chemist produces a new synthetic product in a mass of pilular dimensions and bestows upon it a name that would slow up Arcturus. Nothing but static interference can account for the terms of radio-telephony.

If knowledge is to be humanized it must first be translated.

Dewar has said that the chief object of the training of a chemist is to produce an attitude of mind. It should be the object of all education to produce the scientific attitude toward truth. We may even agree with Robinson that "of all human ambitions an open mind, eagerly expectant of new discoveries and ready to remold conviction in the light of added knowledge and dispelled ignorances and misapprehensions, is the noblest, the rarest, and the most difficult to achieve."

Carlyle says, "The degree of vision that dwells in a man is a correct measure of the man." And President Coolidge has been quoted as saying in a recent interview:—

"Everything flows from the application of trained intelligence, and invested capital is the result of brains. . . . The man of trained intelligence is a public asset. . . . We go forward only through the trained intelligence of individuals, but we, not the individuals, are the beneficiaries of that trained intelligence. In the very nature of things we cannot all have the training, but we can all have the benefits."

Now vision, a trained intelligence, and an open mind are the qualities which characterize all those who are worthy of membership in the Fifth Estate. They are qualities which the many-sided Franklin possessed in exceptionally high degree.

Among all the activities with which his busy life was crowded Franklin undoubtedly found his greatest pleasure in the pur-

suit of science, and in that pursuit he followed the eclectic method. At a time when nearly everything awaited explanation his focused attention ranged like a searchlight over many fields. He observed the movement of winds and developed a theory of storms. He considered ventilation and the causes of smoky chimneys and proceeded to invent new stoves. He introduced the Gulf Stream to Falmouth skippers and demonstrated the calming effect of oil on turbulent seas to officers of the British Navy at Portsmouth. From earthquakes he turned to the heat-absorption of colored cloths and the fertilizing properties of gypsum. He wrote on sun spots and meteors; waterspouts, tides, and sound. The kite, which for centuries had been the toy of boys, became in Franklin's hands a scientific instrument, the means to a great discovery. That its significance is, even now, not universally appreciated is shown by the recent answer of a schoolboy, "Lightning differs from electricity because you don't have to pay for lightning." To Franklin, as the child of every man knows, we owe our initial conceptions of positive and negative electricity, and he was the first to suggest that the aurora is an electrical phenomenon.

The gregariousness, which is a prominent characteristic of the Fifth Estate, found early expression in Franklin. He formed the Junta, a club for the discussion of morals, politics, and natural philosophy, and in 1743 drew up a proposal for the organization of the American Philosophical Society, of which later he became president. He established a wide acquaintance and cemented many firm friendships among the foremost scientific men of France and England, by whom he was received on equal terms. In 1753 he was awarded the Copley medal of the Royal Society for his discoveries in electricity and, on his leaving England, David Hume wrote: "I am sorry that you intend soon to leave our hemisphere. America has sent us many good things—gold, silver, sugar, tobacco indigo—but you are the first philosopher and, indeed, the first great man of letters for whom we are beholden to her."

The professional spirit which animates the Fifth Estate is essentially one of service. Its compelling urge in the search for truth springs from the conviction that the truth shall make men free. That spirit finds complete expression in Franklin's

statement, "I have no private interest in the reception of my inventions by the world, having never made, nor proposed to make, the least profit by any of them." This impersonal relation to the children of his brain was indeed carried by him to an extent which ordinary human nature would find hard to emulate. "I have," he writes, "never entered into any controversy in support of my philosophical opinions; I leave them to take their chance in the world. If they are right, truth and experience will support them; if wrong, they ought to be refuted and rejected."

There is, nevertheless, a place for militancy in science. The world needs a Huxley for every Bryan.

Franklin was a man of science, but his career proclaims that it is possible to be a man of science and much more besides. Science was made for life, and life is more than science. Art in its fullest expression may touch deeper springs, human relations and affections may bring richer rewards, and public affairs may make a more imperious claim. With Franklin as their prototype the members of the Fifth Estate may well strive to emulate his devotion to the public service and his constructive interest in human affairs.

Error and misconception have a feline tenacity of hold upon life, and the Fifth Estate, though richly endowed with latent executive capacity, is still, in popular opinion, regarded as equipped for thought rather than for action. The practical man, busily engaged in repeating the errors of his forefathers, has little time and less consideration for the distracting theories and disconcerting facts of the man of science. Yet who, among the men of action, is more intensely and truly practical than Carty, Baekeland, Reese, or Whitaker? Where shall one find a firmer grasp on the details of business than that possessed by E. W. Rice, Jr., Gerard Swope, or Dr. Nichols? What quality caused the young director of a research laboratory to find himself responsible for the production of gas masks to protect four million fighting men? In a time of dire emergency it was a professor of chemistry who organized the great Edgewood Arsenal and developed the means and methods and the trained personnel required to supply munitions for a new type of warfare. It was not to a statesman or a business man or a great

manufacturer that the Allies entrusted the supreme command. It was to a teacher in a French military school. The range and value of their public service obscures the fact that Charles W. Eliot was a professor of chemistry and that Hoover is an engineer. The League of Nations is a child of a schoolmaster.

Numerically the Fifth Estate has always been feeble and insignificant. Its total membership at any time could be housed comfortably in a third-rate city. No politician makes a promise or invents a phrase to attract its scattered and ineffective vote. Rarely do its members sit in Congress; when they do they sit in the gallery.

With less political influence than the sparse population of Nevada, the Fifth Estate has recast civilization through its study and application of "the great and fundamental facts of Nature and the laws of her operation." It has opened out the heavens to depths beyond imagination, weighed remote suns, and analyzed them by light which left them before the dawn of history. It has moved the earth from the center of the universe to its proper place within the cosmos. It has extended the horizon of the mind until its sweep includes the 30,000 suns within the wisp of smoke in the constellation Hercules and the electrons in their orbits within the atom. It has read the sermons in the rocks, revealed man's place in Nature, disclosed the stupendous complexity of simple things, and hinted at the underlying unity of all.

Because of this new breadth of vision, this lifting of the corner of the veil, this new insight into the hidden meaning of the things about him, the mind of man, cramped for ages by taboos and bound by superstition, is emerging into freedom: into a new world, rich in promise, and of surpassing interest and wonder.

Man brought nothing into the world and through long and painful ages he added little to that nothing: a club, an ax of stone, a pebble in a sling, some skins of beasts, a rubbing of sticks for a fire. He might labor, but to what avail? Even to-day the South American Indian works incessantly, yet his labor produces little more than heaps of stones. To those who would have us believe that all wealth is produced by labor the Fifth Estate replies, "Wealth is the product of brains,

and labor is productive only as it is guided by intelligence."

Science is the great emancipator of Labor. Bagehot has somewhere said, perhaps in "Physics and Politics," that during the early stages of civilization slavery was essential to progress because only through the enforced labor of the many could the few have leisure to think. To-day, in the United States, the supply of available energy is equivalent to sixty manpower for every man, woman, and child. There is now leisure for all to think, but the millions prefer the movies.

It is not Labor, but the trained intelligence of the Fifth Estate which has endowed man with his present control of stupendous forces. It has solved problems that for ages have hindered and beset mankind. It has revealed great stores of raw materials, synthesized scores of thousands of new compounds, furnished the fundamental data which find embodiment in machines and processes and in those agencies of transportation and communication that have made of the world a neighborhood. It has enabled man effectively to combat disease, added years to the average life, and made it better worth the living.

Benjamin Franklin died in 1790—one hundred and thirty-four years ago. Could he return to make appraisal, what wonders would confront his astonished vision, what triumphs of the Fifth Estate compel his admiration!

Electricity, which to his contemporaries was little more than an obscure force, the curious manifestations of which might supply an evening's entertainment, has become the structural basis of the universe. The atom of Democritus is now a microcosm, vibrant with energy that glows in the white light of the electric lamps, which have replaced the tallow dip. In place of the electrophorus and the charges of the Leyden jar he would find in our own country alone twenty-seven million horsepower driving generators in thousands of stations from which electric energy is distributed to our homes and factories and transportation lines to perform innumerable services. Imagine, if you can, the stunning impact of the impressions that would crowd the day of his return. With what amazement would he converse over a wire from Philadelphia to San

Francisco or hear a voice transmitted through the ether from a point halfway around the world. So commonplace a thing as a street car would leave him open-mouthed with wonder, which might well increase at sight of an electric locomotive, hauling its hundreds of tons of freight.

In great industrial plants he would find electricity driving machines of an intricacy, precision, and productive power beyond the imagination of his generation, or at work in decomposing cells, and in the heart of glowing furnaces fashioning new products. In university and corporation laboratories would be revealed to him the marvels of the X-rays, photography, the fascinating world of the microscope, balances weighing  $1/100,000$ th of a milligram, the spectroscope, and all those instruments of precision and research which are the tools of the Fifth Estate. Elements unknown to him would be placed in his hand; fascinating experiments performed to demonstrate properties and relationships beyond his dream. The air, which he studied with reference to winds, combustion, and ventilation, would be reduced before him to a liquid as obvious as water, though boiling on a cake of ice.

Where once the postboy and the post chaise were familiar he would find our roads crowded with automotive vehicles and the country gridironed by the railways. Did he wish to send a letter across the continent, he would have only to commit it to the air mail to ensure its arrival in thirty-six hours. Were he called upon to revisit England, there would be no ten weeks' voyage in a sailing packet, but the speed and luxury of a 50,000-ton liner, oil-fired and turbine-driven. At Portsmouth, where he calmed the waves with oil, he would find, instead of wooden frigates and smooth-bore cannon, submarines and armored superdreadnaughts, a single gun of which could sink the entire British Navy as he knew it. Did he wish to proceed to Paris? He would have only to take passage in an airplane.

The gardeners Franklin knew grew peas for pleasure or profit. Mendel grew them and established the laws of heredity. Farming, which was a wholly empirical occupation, is now the special concern of a great governmental department devoted to the development of scientific agriculture. Here Franklin would learn of soil analysis and seed selection, of hardier and more

prolific varieties of plants, of better breeds of animals, of methods of control of such virulent diseases as splenic fever, anthrax, hog cholera, and bovine tuberculosis. He would find his own experiments with gypsum extended to cover the whole field of chemical fertilizers, the air itself converted into an inexhaustible reservoir of plant food, and the efficiency of farm labor multiplied many times by ingenious agricultural machines.

He would find household economics revolutionized: the town pump replaced by running water; electricity a servant in the house; the food supply broadened and stabilized; domestic drudgery assumed by laundry, bakery, and factory; tasteful clothing within the reach of all; transportation and amusement for the multitude, and the history of yesterday sold for a penny; innumerable new industries, based on the findings of the laboratory, now offering means of decent livelihood to millions, opening careers to thousands.

In great hospitals, permeated with the scientific spirit and equipped with many new and strange devices for the alleviation of human suffering, he would hear of the incalculable benefits which medical and surgical science have conferred upon mankind. He would see the portraits and listen to the story of Pasteur and Lister and Loeb and Ehrlich. We know to-day with what joy and relief the world would welcome a veritable cure for cancer, but we can little realize the emotion with which one like Franklin would learn in a single afternoon of the germ theory of disease, of preventive serums, of antisepsis, of chemotherapy, of the marvelous complexity of the blood stream and the extraordinary influence and potency of the secretions of the ductless glands. What appraisal would he make of the service to humanity which, in little more than a generation, has mitigated the horrors of surgery by the blessings of anæsthesia and antisepsis, which has controlled rabies, yellow fever, typhoid fever, tetanus, which is stamping out tuberculosis, curing leprosy, and providing specifics for other scourges of the race? What values would he put on insulin, thyroxin, adrenalin? The physician is no longer compelled to rely on herbs and simple and drastic mineral compounds of doubtful value and uncertain action. Compounds of extraordinary potency, isolated or synthesized by the chemist, are now available

to allay pain, correct disorders, prolong life, and even to restore mentality and character.

With contributions to their credit which have so enriched and stimulated the intellectual life; which have brought the peoples of the earth together into closer touch than English shires once were; which have revolutionized industry, enlarged the opportunity of the average man, and added so greatly to his comfort and well-being, we may reasonably inquire, "What are the recompenses of the Fifth Estate?"

On the material side they have almost invariably been curiously inadequate and meager. It is incomparably more profitable to draw the Gumps for a comic supplement than to write the "Origin of Species." There is more money in chewing-gum than in relativity. Lobsters and limousines are acquired far more rapidly by the skillful thrower of custard pies in a moving-picture studio than by the no less skillful demonstrator of the projection of electrons. The gate receipts of an international prize-fight would support a university faculty for a year.

One may recall that Lavoisier was guillotined by a republic that "had no need of chemists"; that Priestley was driven from his sacked and devastated home; that Leblanc, after giving the world cheap alkali, died in a French poorhouse; that Langley was crushed by ridicule and chagrin in his last days. A month before the war who could have believed that within a few years the Fifth Estate in Russia would be utterly destroyed and in Germany and Austria existing at the very edge of starvation? What has happened there may happen again elsewhere if the intelligence of the world does not assume and hold its proper place in the direction of national and world affairs.

In the preface to his recent *Lehrbuch der Photochemie* Professor Plotnikow has written: "Home and property were pillaged by bands of idle Russians who used my library for cigarette papers. Hunger, misery, want, and personal insecurity, often approaching fear for my life, were the constant accompaniment of my labors."

One is reminded that Carlyle, on the authority of Richter, says: "In the island of Sumatra there is a kind of 'Light-chafers,' large fireflies, which people stick upon spits, and illuminate the ways with at night. Persons of condition can thus

travel with a pleasant radiance, which they much admire. Great honor to the fireflies, but—I”

It is not becoming that the world expect the light to shine indefinitely when carrying a lantern is often less remunerative than carrying a hod. The money and the years of study required for special training are not recognized as invested capital, and the return from a decade of research is often taxed as the income of a year. Professorial salaries move forward as slowly as a glacier, but they seldom leave a terminal moraine. Yet teaching is our most important business; for a failure to pass on for a single generation the painfully accumulated knowledge of the race would return the world to barbarism.

Though material wealth is rarely acquired by the Fifth Estate, they have the riches of the royal man, defined by Emerson as “he who knows what sweets and virtues are in the ground, the waters, the plants, the heavens, and how to come at these enchantments.” Their wealth is in the Kingdom of the Mind. It is inalienable and tax-exempt. It may be shared and yet retained.

A recent survey by a national magazine would seem to indicate that the majority of men have drifted into their vocations with little effort of selection and that a very large proportion ultimately regret their choice. This is seldom true of members of the Fifth Estate. Theirs is a true vocation, a calling and election. It brings intellectual satisfactions more precious than fine gold. They live in a world where common things assume a beauty and a meaning veiled from other eyes; a world where revelation follows skillful questioning and where wonder grows with knowledge. Together they share the interests, the communion of spirit, the labors and the triumphs of the fraternity of Science. The Law of Diminishing Returns exerts a control from which there is no escape in agriculture, industry, and business. Research alone is beyond the twelve-mile limit of its inhibitions.

If the heavens declare the glory of God that glory is surely made more manifest by telescope and spectroscope. If the whirling nebulae and the stars in their courses reveal Omnipotence, so do the electrons in their orbits reveal His presence in universes brought into being by the striking of a match. The

laboratory may be a temple as truly as the church. The laws of Nature or the Will of God, their discovery is a revelation as valid as that of Sinai, and by their observance only can man hope to come into harmony with the universe and with himself.

There has been a general and ready acceptance by the world of the material benefits of science, while its contributions to sociology and ethics are as generally ignored as guides to human conduct. Yet science proclaims new commandments as inflexible as those engraved on stone, and furnishes what Wiggam has reverently termed "the true technology of the Will of God."

Science has so drawn the world together and so rapidly remolded civilization that the social structure is now strained at many points. Statecraft and politics, law and custom, lack the plasticity of science and are now in imperfect contact with the contours of their new environment. The result, as events have shown, is friction and confusion. Though our civilization is based on science, the scientific method has little place in the making of our laws. Office does not seek the man in the laboratory, and candidates are not pictured as engaged in any activity that might suggest a superior intelligence. They are shown milking cows, pitching hay in new blue overalls, or helping with the family washing. Recently, in the senate of a New England state, there was presented the edifying spectacle of the presiding officer, being shaved by a barber, called to the rostrum, while senators were reading the encyclopædia into the record. To expedite further the public business sundry members of the chamber were presently gassed with bromine. Does not this suggest that a few chemists might with advantage be distributed among our legislative bodies?

It is claimed that fifty per cent of the members of state legislatures in America have never been through high school and that only one in seven has been through college. We see in the ranks of science knowledge without power and in politics power without knowledge. An electorate, which regards itself as free, listens to the broadcast noise of manufactured demonstrations and is blind to the obvious mechanics of synthetic bedlam. The result is too often government by gullibility, propaganda, catchwords, and slogans, instead of government by law based on facts, principles, intelligence, and goodwill.

As President Stanley Hall once said, "Man has not yet demonstrated that he can remain permanently civilized." Many thoughtful people have been led to question the ultimate effect of science upon civilization. We all recognize the utility of matches, but we keep them away from children. Meanwhile, science puts dynamite and TNT, poison gas, airplanes, and motor cars at the disposal of criminals and leaders of the mob. Bertrand Russell, in "Icarus," sees in science the ultimate destroyer. Haldane, in "Dædalus," visualizes it as the stern and vigorous chastener and corrector which will ultimately save the race and usher in the new day of light and reason.

"Knowledge comes, but wisdom lingers," and democracy levels down as well as up. Even in Boston cigars have replaced books on a corner famous for a century of literary associations. The world is wrong because few men can think. It will not be made right until those who cannot think trust those who can. When its foundations are so obviously out of joint humanity still clings tenaciously to fossilized precepts and opinions and is as resentful of suggested change as in the days of Galileo. Despite the pressure of new ideas, education must still, to be acceptable, follow old conventional lines.

Let us not deceive ourselves. Human life is still a hard and fearsome thing. Mankind is required to maintain existence in a world in which, as Kipling has said, "any horror is credible." More than a hundred years ago De Quincey wrote, "We can die, but which of us, knowing, as some of us do, what is human life, could, were he consciously called upon to do it, face, without shuddering, the hour of birth?" But little more than yesterday Henry Adams closed his "Education" with the expression of the hope that perhaps some day, for the first time since man began his education among the carnivores, he would find a world that sensitive and timid natures could regard without a shudder.

We are everywhere overburdened by unnecessary illness, crushing taxation, extravagant and inefficient governments, huge expenditures for trivialities, and the appalling waste of effort, material, and resources. We are hampered by class suspicion and misunderstanding, racial antagonisms, the inhibi-

tions of organized labor, and the lack of imagination in high places. Life in general is on a low cultural plane and bound by custom and tradition.

One hundred years of science have failed to satisfy the cravings of humanity. Chesterton finds science "a thing on the outskirts of human life—it has nothing to do with the center of human life at all." We do not, of course, agree with him, but we must still meet the challenge of John Jay Chapman, who declares: "Science, which filled the air with so large a bray, is really a branch of domestic convenience, a department for the study of traction, cookery, and wiring. The prophet-scientists have lived up to none of their prospectuses." The fault, however, as Wiggam points out, is not with science, nor with the scientists. It is with those who "have mainly used the immense spiritual enterprise of science to secure five-cent fares, high wages, and low freight rates," when it should have "ushered in a new humanism."

Thus we still encourage race deterioration, still carry the burden of the unfit, still cultivate national antipathies, still are breeding from poor stock, and witnessing with equanimity the suppression of the best.

The history of aristocracies, feudalism, the church, the guilds, and the soviets has amply demonstrated that no one class possesses the qualities required for the government of all classes, and we cannot claim them for the Fifth Estate. We can, however, claim with full assurance that the Fifth Estate possesses many qualities, now practically ignored, which could be utilized in government to the incalculable advantage of us all. Its knowledge of material facts, of natural and economic laws, of the factors governing race development and human relations; its imagination, vision, and its open mind, should be brought to bear effectively in the formulation of national policies and the solution of governmental problems. There is an alternative before us, which has recently been defined with somewhat surprising frankness by Warren S. Stone, President of the Brotherhood of Locomotive Engineers, perhaps the most conservative of the labor unions. Mr. Stone says:—

"But until labor, in the inclusive sense in which I am using it, secures control of legislative and executive branches of the

national and state governments, and through control of the executive branch secures control of the judiciary, labor is in continuous peril of seeing its gains wiped out and its progress retarded by hostile legislation or unfriendly court decisions."

Our countrymen may well consider whether they prefer participation in government by the Fifth Estate to the benefit of all or control of government by labor unions in the interest of labor.

Since most of the troubles that beset mankind have their origin in human nature it would seem worth the while of those who make our laws to study and apply the findings of the biologists and psychologists as to what human nature really is and the springs of its motivation.

Plato called democracy "the best form of bad government." It will be the best form of good government only as it develops the capacity to breed leaders and the faith to trust them. The quality of our children will determine the quality of our democracy. If our laws and *mores* and economic structure continue to discourage breeding from our best strains, if there is to be no adequate recompense for service of the higher types, the time is not far distant when democracy will no longer be safe for the world. If the Fifth Estate were everywhere to be wiped out, as it has been in Russia, the result would be vastly more calamitous than universal war.

Oswald Spengler, in a recent monumental work, forecast the downfall of Western civilization and would prove his thesis by the history of past cultures. But never in the past has man lived in so compact a world, never has he had such facilities for intercommunication with his fellows, never has he been endowed with such control of natural forces. He has never known himself so well and, above all, never before has he had it in his power to direct so definitely the course of his own development.

Our civilization is certainly imperiled, but there will be no downfall if mankind can be taught to follow the light already before it. As lantern-bearers, it is the clear duty of the Fifth Estate to show the way.

In the past the world has suffered grievously from lack of knowledge; to-day it suffers from its rejection or misapplica-

tion. Could the springs of human conduct and the affairs of peoples be regulated only as wisely as we now know how, there would be work and leisure and decent living for all. The criminal, the defective, the feeble-minded would be bred out, and sane minds in sound bodies bred in. The loss and suffering from preventable disease and accident would not be tolerated. Higher standards would govern the selection for the public service. Planning would replace *laissez-faire* development, and a rational conservation check the reckless waste of our resources. Production and distribution would attain to levels of efficiency altogether new, and the many injustices now existent in human relations would well-nigh disappear. With the reaction of a freed intelligence on politics, religion, morals, we might hope for a broader tolerance, a better mutual understanding. With the recognition of the spirituality of science and the divinity of research and discovery should come larger interests and a new breadth of vision to the average man, and to us all acknowledgment of the steadfast purposive striving shown in the development of the created world, and a reverent appreciation of man's privilege to aid and further this development.

We might reasonably expect ugliness to be replaced by beauty in our cities and small towns and later even in our homes. Government by intelligence for the general good of all should supersede government by special interests, blocs, faddists, and fear of organized minorities and the uninformed crowd. With it all would come relief from the economic pressure which now bears so heavily upon the Fifth Estate that its children, who should be counted among the best assets of the community, are a luxury.

The world needs most a new tolerance, a new understanding, an appreciation of the knowledge now at hand. For these it can look nowhere with such confidence as to the members of the Fifth Estate. Let us, therefore, recognize the obligation we are under. Ours are the duty and privilege of bringing home to every man the wonders, the significance, and the underlying harmony of the world in which we live, to the end that all undertakings may be better ordered, all lives enriched, all spirits fortified.

# FRANCIS JOHN McCONNELL

## GIANTS AND GRASSHOPPERS

Bishop McConnell was born in Ohio in 1871, graduated from Ohio Wesleyan University and Boston University and entered the Methodist ministry in 1894. After several pastorates in New England he came to the New York Avenue Church, Brooklyn, in 1903. Six years later he was elected to the presidency of De Pauw University, from which position he was called to the high office of bishop in 1912. He is one of the great leaders of Christian thought and enterprise in America, his influence and power extending far beyond the bounds of his own communion. He is the author of many books, and by the votes of more than twenty thousand ministers was recently selected as one of the twenty-five most influential preachers in the United States.

The sermon which follows is an admirable example of "modern" eloquence, familiar, direct and thoughtful.

"And there we saw the giants, the sons of Anak, which come of the giants; and we were in our own sight as grasshoppers, and so we were in their sight."—Numbers 13:33.

THE text is taken from the story of the advance of the Hebrews to the Promised Land. Moses had sent twelve men ahead to spy out Canaan and they had come back with their report. Upon one thing the entire band of scouts at first agreed. They declared the land to be flowing with milk and honey. Then a man named Caleb came plumply out with the recommendation to move *at once* into the land. That put matters in a different light. The students of this passage about the spies have always been puzzled to see how the same persons who declared the land to be flowing with milk and honey in one verse could have declared the land to be an evil land in almost the next

Reprinted by permission from "Best Sermons, 1925," edited by Joseph Fort Newton, published by Harcourt, Brace & Co.

verse. They have thought that perhaps two different traditions have been preserved here and woven into one account. We may well believe this if good and sufficient reasons are advanced, but it does not seem to us that this change of description of Canaan is conclusive. The suggestion of Caleb comes in between the contradictory opinions. It was the thought of moving straight to the attack which changed the opinion of the ten scouts.

Human nature was the same back in those days as it is to-day. A change in the inner attitude made a change in the outward appearance. As long as the scouts were not confronted with the immediate possibility of assailing the land of Canaan they saw the milk and honey. The very suggestion, however, to march to forthright attack so withered their inner spirit that in their thought the land withered also. An inner drought made them imagine an outer drought. The ten belonged to that large class of human beings to whom the Promised Land looks pleasant until you urge them to capture it *now*. Then difficulties develop. There is no doubt in our day that, if the people would, we could introduce large elements of the millennium to-morrow morning, but ten out of twelve who sing about the delights of the kingdom of God on earth and who pray devoutly for the coming of the kingdom might be horror-struck at the idea of immediately moving into the Promised Land. Too speedy advance might have a bad effect on business, or on something else. The fields might eat up the inhabitants thereof. No—there is nothing incredible in the idea that those who praised the land in verse 27 of Numbers 13 cursed it in verse 32. Caleb's suggestion is in verse 30.

The ten scouts give the reason for their own distress in their view of themselves. "We were in our own sight as grasshoppers." Since they took themselves as grasshoppers, it is only natural that the inhabitants of the land should have taken them as grasshoppers. If a man takes himself as a grasshopper, he need not be surprised if the onlookers speedily acquiesce in his view. Quite likely these ten scouts acted like grasshoppers, bending over to conceal themselves and leaping along in dire terror of the giants—no doubt to the huge amusement of the giants themselves. The situation would seem almost humorous if it were not so often repeated. The grasshopper view of human life is

not yet banished from human thought. When we begin to urge men to enter the Promised Land which God holds out before us we are often met with the cry: "Alas, we are but grasshoppers! How can frail creations like ourselves attain unto such victory? How can we conquer the immense physical forces around us? How can we so modify economic conditions as to establish the kingdom of God here on earth? The ideal is glorious, but 'we are as grasshoppers in our sight.' And we are as grasshoppers in the sight of the social and industrial giants who are now monopolizing the milk and honey!" And, as of old, the grasshopper view of human life is followed by the grasshopper conduct.

Caleb did not care much for the grasshopper doctrine. He was not appalled by the mere size of the inhabitants of Canaan. He had a different creed concerning himself. He knew that the spiritual element is what counts in a real struggle for a Promised Land, and he was willing to match the spirit of Israel against the mere size of the inhabitants of Canaan. He knew the power of the consciousness of the nearness of the Lord as a fighting factor on the field of battle. Caleb had the right of it. The victories which Israel won were all won by the emphasis on the spiritual factor. Jericho fell, simply because of the irresistible conviction of Israel that it must fall. When the Israelites forgot God they dropped quickly back to the grasshopper stage. All their power was in their spiritual audacity. The formal reasons were indeed in favor of staying behind. The majority had statistics and measurements on their side. They knew how tall the inhabitants were and how many there were of them. Caleb and Joshua simply said that the people should go forward at once, for they were well able to possess the land—but this was opinion, and not statistics. The statistics were in favor of staying at a distance. That is one trouble with statistics. Too often there is no suggestion of "go" in them. Caleb said that the people ought to go ahead. About all the important movements in the world's life have come as some leader has encouraged the people to go ahead in face of all the facts which can be brought against advance. It is easy to find ten reasons against advance for one in favor of advance.

The people wailed all night. The voice of the people, even

of the peculiar people chosen to do the work of the Lord, could hardly have been called the voice of God on this particular occasion. After a period of incoherent weeping somebody raised the question as to what should be done under the circumstances! When they came face to face with this question there were just three things that could be done; first they could stay where they were, but that did not seem promising; second, they could listen to Caleb and advance to the Promised Land, but that suggestion aroused them to madness; third, they could go back to Egypt. When we think about these alternatives we are struck again with the fact which we have so often observed, namely, that, after all, the plan of the Lord is the only plan which will work, in spite of all the formal reasons that can be marshaled against it. As soon as the thought of going back to Egypt arose there arose also the question as to how to get back. These people had been moving through the desert without taking any thought of the paths. There would have hardly been a safe guide among them apart from some one whom Moses might select. The people had been trudging along without paying much attention to where they were. All they thought of was food—and changes of food. They knew that they could not get back without a leader. Then they set themselves for the selection of a captain. But who should be the captain? Manna does not seem to have been particularly palatable to the people, but could they be sure that the new captain could get even that? It came in the end about to this—that the only man they could rely upon was Moses, and the only safe plan was to go ahead. When Joshua and Caleb again urged this plan, however, the people were willing to stone them. No better word could have been spoken than the words of those who were willing to go ahead. It is a principle of any warfare that the moral element is to the physical element as about three to one; and Caleb, though he did not have as many reasons as the others, had the weighty reason after all. "The Lord is with us, and not with them." "Their defense is departed from them." "The battle is over before it has begun." "Let us go up at once." All these words are the words of a real leader. Caleb sees that the favor of the Lord and consciousness of his presence mean more than mere muscle. Assuming that there

were giants in the land, the giants were not so tall as to be able to overcome the moral superiority of the believers in the Lord. Very few physical giants amount to anything. And Caleb would start at once. Every day in the wilderness meant greater demoralization of the force. It was all good sense and deep piety—which, by the way, always belong together.

Caleb was overwhelmingly voted down, but he received the promise of an entrance into the land of Canaan nevertheless. It is a remarkable illustration of the way in which a vote which is not counted at the time may be counted afterwards. Caleb's insistent appeal for immediate advance came to nothing at the time except great uproar among the people. Those who kept their heads at all may have thought Caleb a very foolish fellow in not moving to make the report of the ten unanimous. He ought to work in quieter ways, they may have said. If he accedes now, we shall be spared this uproar. Caleb is "setting the cause back," for the more he protests as to the good of the land the more the ten protest as to its barrenness. Caleb means well, but he is not as wise as he might be. Caleb as a matter of actual fact did accomplish nothing at the time. His vote was thrown out, as was that of the faithful Joshua who sided with him. A vote for advance to the work of the Lord, however, is not thrown away. There is another set of tellers than those who actually appear on earth. The Lord counts votes and he counts them not quantitatively but qualitatively. In the eyes of the Lord the vote of Caleb and Joshua was the only worthy result of the expedition of the spies. He promised reward to these men who had brought nothing to pass except to make a commotion. The ten had their way. The wise heads who deplored the lack of discretion in Caleb and Joshua applauded the ten. The people said fine things about desiring to protect their wives and little ones and not straining the established order, and finally bade one another stone Caleb and Joshua "with stones." Probably they thought themselves very lenient that they eventually spared the lives of such reckless radicals. But the day of Joshua and Caleb came later, and when that day came the ten and the people who had shouted their approval of their disparaging report had died like grasshoppers in the wilderness which they had voted not to leave.

This seems like a hard fate—this death of the doubters in the wilderness, but the simple fact was that the people who had lived long in Egypt were not fit for the Promised Land. They were too old—old not so much in years as in their proneness to look backward. As the days and weeks and months and years had gone by, the harsh features of the service in Egypt had become softened in their recollections. They forgot the long hours, the dark mornings when they had to get up before daybreak and hunt straw for the bricks, the lash of the taskmaster, and the exactions of Pharaoh. All they could see was that they were having a hard time of it in the wilderness, and Egypt looked pleasant by contrast. There was no need of thinking of advancing into Canaan with such an incurably backward-looking people. So the whole generation had to die off.

History is always repeating itself. Some Canaans never can be entered until the generation that first hears of Canaan passes off the stage, and a new generation comes which knows not Egypt. The children of the Israelites, born in the wilderness, did not suffer from the backward glance. All they knew was the wilderness and the prospects of Canaan. The leeks and the onions and the garlic about which they heard their parents talk meant nothing to them. Accustomed to hard fare in the wilderness, they would not have known an onion if they had seen it. Moreover, the very hardness of the training fitted them for conquest. The generation that came out of Egypt served the Lord by coming out of Egypt. Possibly that was enough for them. Physically they wrought a great service in getting out of Egypt. Spiritually they never really got out; their minds kept always turning back. The decree that they must perish was not arbitrary. They never could have got into the Land of Promise, and if they had they could not have stayed. In the light of the aftertimes we see that they served by getting out of Egypt. The younger generation had to do the getting into Canaan.

Those who came out of Egypt were bound to see the dark side of Canaan. They said that the land was a bad land and that it ate up the inhabitants thereof. Then these reporters of course went on to say that the inhabitants of Canaan were

giants. Just how the land could at one and the same time eat up the inhabitants and cause those inhabitants to grow to the stature of giants does not appear. A little inconsistency like that does not bother a people looking back to Egypt. We have no historical records that the peoples in Canaan at the time of the coming of Israel were of such enormous stature as to warrant calling them giants. The spies in their panic added a foot or two to the height of the Canaanites. They didn't see double but they did see ordinary height exaggerated into giantlike stature. All this was honest enough. Nobody was telling any lies. What a man sees depends not only on his eyes but also on what is back of his eyes. Back of the Egypt-born eyes was an old, despairing mental habit that never would have seen anything good in Canaan.

"We were in our own sight as grasshoppers, and so we were in their sight," said the majority report of the spies. Very likely! If a man takes himself as a grasshopper he need not complain if other people take him as a grasshopper. If a man takes himself as a grasshopper he is likely to act like a grasshopper. That is the way these hankerers after Egypt probably acted, squatting down in terror on the ground and hopping like insects from the shelter of one bush to another. When a man is squatting close to the ground, any man standing up on his two feet looks to the squatter like a giant. What a spectacle it is—the advance agents of the chosen people of God, the descendants of Abraham, the forefathers of the Christ, the called to the world destiny—sneaking around on their hands and knees in the grass and calling the Canaanites giants!

It was all very ridiculous but not one whit more ridiculous than the present-day pessimism which admits that Christian principles applied to society, to government, to industry would lead to a land of milk and honey, but which wails in distress at the idea of doing anything now. Let us trust to the slow processes of education; let us see if we cannot breed giants of our own in the wilderness; let us see if we cannot starve one Canaanite giant at a time into surrender. At some periods in social advance such advice is wise—but at other periods the call should be for immediate advance. Some massive improvements in the political, social, industrial realms could be seized

at once if a given generation would listen to Caleb and Joshua. Since that generation will not listen we give ourselves to the training of a new generation—and meantime the old generation dies off.

We can lift the lesson out of the Old Testament altogether and bring it down to present-day setting. The Christ whom we serve is a lord of harvests as well as of seed sowings. When any harvests of truth ripen for individual and social applications his word is that his followers should *immediately* put in the sickle. Some advances should be sounded *now*. To postpone, or to hesitate, is to resist an essentially Christian impulse.

# WILLIAM THOMAS MANNING

## THE VISION OF UNITY

The Right Reverend William T. Manning, Bishop of New York, was born in 1866, was rector of Trinity Parish, New York, from 1908-1921 when he was consecrated Bishop of New York. In recent years Bishop Manning has been active as a leader of the movement to complete the Cathedral of St. John the Divine. The following sermon was preached in the Fifth Avenue Presbyterian Church, New York City, March 22, 1925.

"There is neither Jew nor Greek, there is neither bond nor free, there is neither male nor female, for ye are all one in Christ Jesus."—Galatians 3:28.

It gives me great pleasure to speak to you this afternoon at the invitation of your honored pastor, Dr. Morgan, who has kindly consented to preach at the second in our series of special evangelistic services at the Cathedral to-night.

I have written my sermon out in full, because I want to use this occasion to say certain things which I feel to be of much importance, and because for what I say on this subject I want to be held strictly accountable.

It is an unhappy fact that Christians to-day are separated and divided among themselves. In the face of the world's great need, the Christian Church stands with her life enfeebled, her witness weakened, her message in some measure discredited by her own differences and dissensions.

Of the practical waste, the squandering of energy and resources occasioned by our divisions, it is scarcely necessary to speak. We see the evidences of this on every hand. It is obvious that the energies which, as Christians, we devote to controversy and conflict with each other should be devoted to the one great purpose for which the Church exists, the bringing of

the whole world to the knowledge and fellowship of Jesus Christ. But the overlapping, the duplication of effort, the competition and rivalry among Christians are worse than mere waste of resources, serious as this is. They are a spectacle which lessens the faith of men, which brings religion into disrepute, and which does daily hurt to the cause of Christ.

Men to-day in general are not hostile to religion, but the message of Christ seems to them confused and uncertain. Amid the controversies of the Churches they cannot hear the great central message of the Church. The fact which they see clearly is that however the divisions among Christians may be accounted for they conflict with the Church's own teaching, and contradict her own principles. They know that whatever else the Church of Christ stands for it must, if it truly represents Him, stand for harmony, not for discord; for peace, not for dissension; for fellowship, not for separation and division.

A disunited Church cannot give the full message of Christ to the world. How can we expect the world to accept the Gospel of fellowship from an organization which is at variance with itself? What consistency is there in an appeal for a united world issued by a divided Church? That the consequences of our present divisions are most serious is all too clear. But the hopeful feature of the situation is that Christians everywhere are realizing this. Never, I believe, since the divisions in the Church of Christ took place has the need of reunion been felt as deeply as it is now.

A new spirit of fellowship is showing itself. Misconceptions are being removed. Mutual respect is taking the place of suspicion and misunderstanding.

Scholarship is at work and under its impartial searchlight some of the old difficulties wear a changed aspect. There is a new freedom, a new interchange of thought, a new readiness to compare ideas, and to consider opposing views among scholars and leaders in all Communion. Roman Catholics and Protestants, Anglicans and Nonconformists are found sympathetically and open-mindedly studying each other's religious life and teaching. Christians to-day are realizing that the things which unite them are greater than the things which

separate them. They are asking why the separations should continue. We know that there is among all Christians a true inward unity of the Spirit; and we cannot emphasize too strongly the reality of this inner unity of the Spirit which binds all true Christians together. But this inner invisible unity alone is not sufficient. It is obviously not a complete unity. It does not fulfill Our Lord's desire for the fellowship of His disciples as this is declared to us in the New Testament. And it does not give the needed evidence of Christ's power to an unbelieving world. Our inner unity in Christ must be exhibited in a fellowship which men can see. We cannot, as Christians, be satisfied, and the world will not be convinced, by an inward and invisible unity which is contradicted by outward separation and division. I believe that we are now called, that the whole situation in the world is now calling us, to make new efforts for the realization of that unity and fellowship among Christians which St. Paul proclaims, and for which Our Lord Himself prayed.

I believe the time has come for a new synthesis of the deep religious values represented by all Christian Communions, both Catholic and Protestant. I believe that a deeper study of these values will show that they are not as antagonistic as they may appear on the surface, but that in great degree—not altogether, but in great degree—they are complementary to each other.

We need a synthesis of that Truth of Religion for which St. Patrick's Cathedral, the Fifth Avenue Presbyterian Church, the Russian Cathedral of St. Nicholas, and the Cathedral of St. John the Divine all stand.

What we need to-day is a new manifestation of the spirit of brotherhood which shall draw us into fellowship not only with our fellow Christians of all names, but with men of all races and of all faiths, realizing that we are all children of one Father and are all created in His image and likeness.

What we need now is a Christianity larger, nobler, truer than any that we have yet attained, a Christianity larger not because it has surrendered its faith in Christ's Gospel, but because it has entered more deeply into the Gospel, a Christianity which is in vital organic relation with the past, but which includes the spiritual contributions of this age and of

every age since the first days. We need have no fear that in such an atmosphere the Truth of Christ will suffer. In the atmosphere of brotherliness, mutual sympathy and fellowship, the Truth of Christ will flourish and find fullest expression.

The Christianity which we now need must be loyal to the Gospel as once for all revealed in Christ, but it must believe also in progress as the very condition of its life, it must rejoice in the new as well as in the old, it must have care for, and sympathy with, all that brings strength and cheer and gladness to the lives of men. We must not content ourselves to-day with a mere fellowship of Protestants on the one hand and of Catholics on the other. This would fall far short of the brotherhood to which Christ calls us and might only intensify the divisions among Christians. We must stand for the fact that in Christ, and through Christ, all are to be made one, that in the great words of St. Paul, "there is neither Jew nor Greek, there is neither bond nor free, there is neither male nor female, for ye are all one in Christ Jesus."

It is this heavenly vision of unity for which we pray that the Cathedral of St. John the Divine may stand, a unity based not on surrender of Christian Truth, but on development of the spirit of Christian brotherhood in its largest and fullest meaning.

I pray that the Cathedral may more and more realize the noble ideal of its founders, who declared in its constitution that while it is the Cathedral of the Episcopal Church, it is also a House of Prayer for the use of all people who may resort thereto and is "an instrument of Church Unity and a center of intellectual light and leading in the spirit of Jesus Christ." Throughout its history the Cathedral has stood, as it should stand, in wide and large relationship with the life of the city as a whole, and I think I may say that it has never stood in this relationship more fully than it does to-day. By its influence it is I believe helping practically and powerfully to strengthen the spirit of unity among Christians of all names, and to draw all men into truer fellowship. I pray that it may be more and more a great center of faith and love and brotherhood in our common life.

Let us keep the great vision of unity before us. God give us strength to believe in it, to pray for it, to work for it. We must not be content with anything less or lower than the vision of St. Paul, the vision of Our Lord Himself, that in Him and through Him all of us—not some of us, not Protestants alone, nor Catholics alone, but all of us—may be drawn into fellowship with each other and with our Father Who is in Heaven.

# GUGLIELMO MARCONI

## THE PROGRESS OF WIRELESS TELEGRAPHY

Guglielmo Marconi (1874-1937), born in Italy, was one of the most eminent scientists of modern times and especially noted for his invention of wireless telegraphy. In 1899 he established wireless connections between France and England, and in 1901 across the Atlantic Ocean. The following address (abridged) was given at the 310th Meeting of the New York Electrical Society, on April 17, 1912. Mr. John Bottomley, President of the Society, said in introducing Mr. Marconi: "In 1898 I undertook the arrangements for reporting the international yacht races for the Associated Press, one of the first reported important movements done by wireless. Even at that time I regarded Mr. Marconi as one of the most modest men I had ever had the privilege of knowing. And notwithstanding the honors which have since fallen to him from all sides and stations—royal, scientific and social—he retains unimpaired that supreme characteristic. His labors have been untiring, and their supreme fruition has been shown during the past and present week, through this *Titanic* disaster, the most terrible in the annals of the sea."

I HEARTILY appreciate the privilege of addressing the New York Electrical Society on Wireless Telegraphy, a subject which is at present attracting more world-wide interest than any other practical application of what we call electricity.

Although some of my earliest tests were carried out in America and although the American Institute of Electrical Engineers was the first technical institution to give the greatest possible prominence to my long-distance experiments, this is the first time that I have had the honor of delivering a lecture before an American audience.

The mystery enveloping electricity began to dissipate when it was suggested by Ampère that the theory of universal ether, possessed of purely mechanical properties, might supply the

means for explaining electrical facts: this view was upheld in America by Joseph Henry and in England by Faraday.

When Maxwell published, in 1864, his splendid dynamical theory of the electro-magnetic field, and worked out mathematically the theory of ether waves, and Hertz proved experimentally the correctness of Maxwell's hypothesis, we obtained perhaps the greatest insight into the hidden mechanisms of nature which have yet been made by the intellect of man.

An age of progress such as this has made Wireless Telegraphy possible. Its basic principles are established in the very nature of electricity itself. Its evolution has placed another great force of nature at our disposal.

The phenomenon of electro-magnetic induction, which was chiefly revealed to us by the researches and discoveries of Ampère, Faraday and Henry, had long since shown how it was possible for the transmission of electrical energy to occur across a small space between a conductor traversed by a variable current and another conductor placed near it; but the fact that waves of electrical energy could be created in space was not realized until Hertz proved experimentally in 1887 the correctness of the dynamical theory of the electro-magnetic field enunciated by Maxwell in 1864.

I shall not take up your time in explaining what is now well known to the majority of engineers, as to the method used for producing waves by early experimenters. I will, however, mention that Hertz first clearly demonstrated that if two metallic bodies are charged with opposite electricity and then suddenly discharged, high frequency oscillations are set up in the two bodies or plates, and as a result energy in the form of electric waves is transmitted or radiated into space.

These waves were demonstrated by Hertz and others to follow the laws of reflection, refraction, polarization, etc., in the same manner as the waves of light. The length of the electric waves used in wireless telegraphy is, however, very great in comparison with that of light waves, and the former, therefore, although invisible to the human eye, have the advantage over light of not being absorbed by fog or mists and of being able to go through or round obstacles which stop the propagation of light.

With the apparatus available up to 1895 it had been possible to detect the effects of electric waves over only very short distances—not more than a few hundred yards—hardly further in fact than the space over which one can make oneself heard by shouting. It is, therefore, not surprising that the useful application of these waves to actual telegraphy was not then attempted, or I might even say realized.

In August, 1895, I discovered a new system which enormously increased the distance over which one could transmit and detect electric waves, and which at once removed the limitations besetting the transmission and detection of electric waves over long distances.

The interference of obstacles began to disappear and by means of suitable transmitters and receivers capable of being worked, not simply as laboratory apparatus, but as real and efficient telegraph instruments, the range over which one could telegraph was increased at a surprising rate.

When, thirteen years ago, communication was first established by means of wireless telegraphy between England and France, over a distance of thirty miles, much discussion and speculation took place as to whether or not wireless would be practicable for much longer distances than those then covered, and a somewhat general opinion seemed to prevail that the curvature of the earth would be an insurmountable obstacle to long-distance transmission, in the same way as it was and is an obstacle to signaling over considerable distances by means of light flashes. Difficulties were also expected as to the possibility of preventing mutual interference with short-distance stations, and also in regard to the practical control of the large amount of energy necessary to cover long distances.

What often happens in pioneer work repeated itself in the case of radio telegraphy. Supposed obstacles or difficulties were often purely imaginary, or else easily surmounted; but in their place unexpected barriers manifested themselves; and recent work has been mainly directed to the solution of problems presented by difficulties which were certainly neither expected nor anticipated when long distances were first attempted.

In January, 1901, I carried out some successful experiments between two points on the south coast of England, 186 miles

apart, namely, St. Catherine's Point, in the Isle of Wight and the Lizard in Cornwall. The total height of these stations above sea level was only a fraction of what would have been necessary to clear the curvature of the earth. The result obtained from these tests, which at the time constituted a record distance, seemed to indicate that electric waves would most probably be able to make their way round the curvature of the earth, and that therefore even at greater distances—such as those dividing America and Europe, the fact of the earth's curvature would not constitute an insurmountable barrier to the extension of telegraphy through space.

The belief that the curvature of the earth would not stop the propagation of the waves and the success obtained by syn-tonic methods in preventing mutual interference, led me in 1900 to decide to attempt the experiment of proving whether or not it would be possible to detect electric waves over such a distance as 2000 miles.

The experiment was, in my opinion, of great importance from a scientific point of view, and I was convinced that the discovery of the possibility of transmitting electric waves across the Atlantic Ocean and the exact knowledge of the real conditions under which telegraphy over long distances could be carried out, would do much to improve our understanding of the phenomena connected with electric wave transmission.

Tests were commenced by myself early in December, 1901, at a temporary receiving station erected at St. Johns, Newfoundland, and on the 12th of that month the signals transmitted from England and chiefly consisting of repetitions of the letter "S" were clearly and distinctly received by myself and my assistants in Newfoundland. Confirmatory tests were carried out a few weeks later between Poldhu, and a receiving station on the *S. S. Philadelphia* of the American line. On board this ship readable messages were received by means of a recording instrument up to a distance of 1551 miles, and test letters as far as 2099 miles from Poldhu. The messages received on the *Philadelphia* at the various distances were recorded on tape and were exceedingly clear and distinct, as can be seen by the tapes in my possession.

These results, although achieved with imperfect apparatus, were sufficient to convince me and my co-workers, that by means of permanent stations and by the employment of sufficient power it would be possible to transmit messages across the Atlantic Ocean in the same way as they were sent over shorter distances. The tests could not be continued in Newfoundland owing to the hostility of the cable companies, which claimed the rights for telegraphy, whether wireless or otherwise, in that Colony, and for this reason the base of my experimental and practical work in Transatlantic telegraphy was transferred to Canada.

The transmission of electric waves across the Atlantic Ocean, first achieved in 1901, constituted in itself a discovery which the American Institute of Engineers was the first as a scientific and technical body to notice and commemorate.

Although it may be said that no apparatus, new in principle, was used to obtain the result, still the fact of being able to transmit and receive electric waves over a distance of 2000 miles, constituted in itself an absolute confirmation of my views to the effect that electric waves could travel over such enormous distances, and that the curvature of the earth and other supposed obstacles would not prevent them being employed in carrying on the intercourse of human intelligence over any distance separating parts of our little planet.

Although the mathematical theory of electric wave propagation through space was worked out by Clerk Maxwell more than fifty years ago, and notwithstanding all the experimental evidence since obtained concerning the nature of these waves, yet so far we understand but incompletely the true fundamental principles concerning what effects the propagation of the waves on which wireless telegraph transmission is based along the surface of the earth. Although it is now perfectly easy to design, construct and operate stations capable of satisfactory commercial working over any distance up to 2500 miles, no really clear explanation has yet been given of many absolutely authenticated facts concerning these waves. . . .

A well ascertained and confirmed fact remains, that it is easier to communicate over sea than over land. We fortunately have in this case another instance of Nature helping us in the

utilization of her forces. Over land where it is easy to erect and maintain the poles and wires of the ordinary telegraph, wireless telegraphy has had some difficulties to contend with; but on the sea where connection and communication between ships is essential for their safety and where telegraph poles and wires between them are utterly impossible, special facilities have been afforded us for the prompt utilization of what is in many cases the only possible means of communication.

In the same way that great enemy of the safety of ships—fog—seems to favor wireless transmission, which is usually more essential to them in foggy weather than in fine.

Whether wireless telegraphy will or will not displace the cables is a question which only time will decide. The view that it will soon be one of the principal means of communication over long distances is one that is unpopular in England where over \$300,000,000 are already invested in cables.

There is no doubt, however, that this new method which knows no frontiers of political division is tending to cheapen and extend our means of communication between distant points of the earth and to bring telegraph communication within reach of the great majority of people to whom present telegraph rates are prohibitive. For press service it is already largely used. Nearly all the European news published in some of the great New York dailies comes across the Atlantic without the aid of any cable or artificial conductor. The *New York Times* which has done so much to encourage the commercial application of long distance wireless telegraphy, has received messages in New York from London in less than ten minutes, although these messages have to be repeated over land lines connecting the coast station respectively with London and New York.

By the majority of people the most marvelous side of wireless telegraphy is perhaps considered to be its use at sea. Up to the time of its introduction as soon as ships reached any appreciable distance from land they could say good-by to the shore as they had no means of getting in touch with land throughout the whole duration of the voyage. But those who now make long sea journeys are no longer cut off from the rest of the world, and the quiet and isolation which it was possible to enjoy on board ships have become things of the past.

Business men can continue to correspond with their offices in America or Europe, ordinary social messages can be exchanged between passengers and their friends on shore; even a daily newspaper is published on board some of the principal liners giving the chief news of the day.

The chief benefit, however, of wireless telegraphy lies in the facility which it affords to ships in distress of communicating their plight to neighboring vessels or coast stations, and one of my greatest gratifications has been to know that it has not yet once failed at the critical moment in successfully conveying the all-important demand for help.

That it is now considered indispensable for this reason is shown by the fact that several governments, including that of the United States of America, have passed a law making a wireless telegraph installation a compulsory part of the equipment of all passenger boats entering their ports.

In view of the fact that the attention of the American public, and indeed, of the whole civilized world, has, during the present week, been fixed in painful anxiety on the greatest disaster known in the annals of navigation it would be impossible for me not to make at least passing reference, reluctantly as I do so, to that grim and awful catastrophe whose details we have yet to learn more fully than they have reached us by wireless across hundreds of miles of ocean.

I know you will understand me if I say that all those who have been working at the problems of wireless telegraphy, many of whom, like myself, are so often brought into close touch with the wonders and perils of the sea, entertain deep feelings of gratitude that telegraphy through space has again contributed in this instance to the saving of hundreds of precious lives.

Allow me also to take this opportunity of expressing my sincere recognition of the generous sentiments that have been expressed towards me by the American Press at this moment of profound grief over the sinking of the *S. S. Titanic*.

# JULIUS M. MAYER

## THE COURT AND THE LAW

Julius M. Mayer was born in New York in 1865 and died in 1925. He was judge of the District Court, Southern District of New York, from 1912 to 1921, and United States circuit judge from 1921 until his death. The following charge was delivered in the Federal Court in New York City on October 30, 1918, by the judge imposing sentence on Roger N. Baldwin. It is reprinted here as an admirable example of a judicial charge and also as a significant exposition of the relation of the law to the individual. Mr. Roger N. Baldwin, a distinguished radical, appeared before the court as a violator of the Draft Act. He presented his case in a notable speech ending in the following paragraphs:

"I ask the Court for no favor. I could do no other than what I have done, whatever the court's decree. I have no bitterness or hate in my heart for any man. Whatever the penalty I shall endure it, firm in the faith, that whatever befalls me, the principles in which I believe will bring forth out of this misery and chaos, a world of brotherhood, harmony and freedom for each to live the truth as he sees it.

"I hope your Honor will not think that I have taken this occasion to make a speech for the sake of making a speech. I have read you what I have written in order that the future record for myself and for my friends may be perfectly clear, and in order to clear up some of the matters to which the District Attorney called your attention. I know that it is pretty nigh hopeless in times of war and hysteria to get across to any substantial body of people, the view of an out and out heretic like myself. I know that as far as my principles are concerned, they seem to be utterly impractical—mere moonshine. They are not the views that work in the world to-day. I fully realize that. But I fully believe that they are the views which are going to guide in the future.

"Having arrived at the state of mind in which those views mean the dearest things in life to me, I cannot consistently, with self-respect, do other than I have, namely, to deliberately violate an act which seems to me to be a denial of everything which ideally and in practice I hold sacred."

I HAVE not any question at all in my mind that the position which you have announced as being held by you, is honestly and conscientiously held.

In one regard, out of a considerable number of cases that are of similar character, you do stand out in that you have retained your self-respect, because you state to the Court your position without quibble, and you don't seek to avoid the consequences of that position, as some others who have been much louder in words, have done, by taking the chance of a trial and the possibility of escaping through either some technicality of the law or through some inability of a jury to decide appropriately on the facts.

And therefore I want you to distinctly understand, as I think you will, with your ability and intelligence, that I deal with the disposition of your case entirely from the standpoint of the law. And although our individual views are not considered as a matter of import, it may or may not be some satisfaction to know, that while your views are exactly opposite to those that I entertain, I cannot help but contrast in my mind your self-respecting and manly position in stating views which to my mind are intolerable, but which are so stated so as at least to put your case in a somewhat different position from that of others to which I referred.

Now it may be impossible for me to convey to your mind successfully the point of view which I think is entertained by the great masses of the people, and which must be entertained by the courts and by those, such as the Department of Justice, who are charged with the administration of the law.

In all that you have said, I think that you have lost sight of one very fundamental and essential thing for the preservation of that American liberty of which by tradition you feel that you are a genuine upholder. A republic can last only so long as its laws are obeyed. The freest discussion is permitted, and should be invited in the processes that lead up to the enactment of a statute. There should be the freest opportunity of discussion as to the methods of the administration of the statutes. But the republic must cease to exist if disobedience to any law enacted by the orderly process laid down by the constitution is in the slightest degree permitted. That is,

from my point of view, fundamental. That is the sense, not only from an ideal standpoint, but from a practical standpoint. We should not be able, as I think most Americans believe, to maintain what we regard as a Government of free people, if some individual, whether from good or bad motives, were able successfully to violate a statute, duly and constitutionally and properly passed, because his own view of the same might differ from that entertained by the law makers who have enacted the law, and from that of the executive who has given it his approval.

Now that is my point of view, based upon a system whose perpetuity rests upon obedience of the law.

It may often be that a man or woman has greater foresight than the masses of the people. And it may be that in the history of things, he, who seems to be wrong to-day, may be right to-morrow. But with those possible idealistic and academic speculations a court has nothing to do.

I don't take into consideration any of the details of the organization with which you were connected. I cannot and will not endeavor to arrive at any conclusions as to whether its activities were good, bad, or indifferent. If it should come before the Court sometime, why then, the Court, however composed, will deal with the subject matter as the evidence may justify. I am concerned only with your perfectly definite, frank statement that you decline to take a step which the law provides. I am directing my mind solely to the indictment to which you plead guilty. You are entirely right. There can be no compromise. There can be neither compromise by you as the defendant, as you say, because you don't wish to compromise. Nor can there be compromise by the Court, which, for the moment, represents organized society as we understand it in this Republic. He who disobeys the law, knowing that he does so, with the intelligence that you possess, must, as you are prepared to—take the consequences.

When at times there have been brought in here, ignorant men—men of low intelligence—men who have lacked opportunity of education and cannot see things clearly—the Court, by whatever Judge may be sitting, has seen its way clear to make the punishment light, where theoretically under the stat-

utes it might be made severe. You have made my task this morning an entirely easy one. I have no difficulty in concluding how your case will be treated, because at the moment you represent one extreme of thought, and in my capacity at the moment, I represent another. I cannot emphasize too strongly that in my view, not only could this war not have been successfully and in a self-respecting way carried on by the United States Government if such an attitude as yours had prevailed, but I think such an attitude would have led inevitably to disorder and finally to the destruction of a Government, which with all of the imperfections that may attach to human government, has proved itself, as I view it, to be a real people's Government, as evidenced by the millions upon millions of men who voluntarily obey the laws—and some of them requiring great sacrifice—which, as enacted by the legislature, embody the judgment of the people at large.

Now in such circumstances, you representing the utterly contrary view, you representing—although possibly not meaningly—a position which in my judgment if carried out would mean the subversion of all the principles dear to the American people, and the ultimate destruction of the Republic, there is nothing left for me to do except to impose the full penalty of the statute. It would be obviously most unwise to permit you to go into the army now, and there become a disturbing element and cause the military authorities only an increase to the many great and difficult problems with which they are now dealing. The case is one, from the standpoint of penalty to be imposed, no different from that which has been imposed in many similar cases. The maximum penalty, as I understand it, is one year in the penitentiary. You have already spent twenty days in imprisonment. You ask for no compromise. You will get no compromise. You are sentenced to the penitentiary for eleven months and ten days.

## SIR WILLIAM OSLER

### FAREWELL TO THE MEDICAL PROFESSION OF AMERICA

Dr. Osler was born at Bond Head, Ontario, in 1849. He graduated from McGill University in 1872, was professor of medicine in McGill University 1874-1884, in the University of Pennsylvania 1884-1889, in Johns Hopkins University 1889-1905, and in 1905 became regius professor of medicine in the University of Oxford. In 1911 he was created a baronet. He died in 1919. Famous as a physician and as a scientist he was the best known member of his profession in the United States and Great Britain. This address was delivered at a dinner given by the medical profession of the United States and Canada in Dr. Osler's honor in New York, May 20, 1905.

I AM sure you all sympathize with me in the feelings which naturally almost overpower me on such an occasion. Many testimonials you have already given me of your affection and of your regard, but this far exceeds them all, and I am deeply touched that so many of you have come long distances, and at great inconvenience, to bid me God-speed in the new venture I am about to undertake. Pardon me, if I speak of myself, in spite of Montaigne's warning that one seldom speaks of one's self without some detriment to the person spoken of. Happiness comes to many of us and in many ways, but I can truly say that to few men has happiness come in so many forms as it has come to me. Why I know not, but this I do know, that I have not deserved more than others, and yet a very rich abundance of it has been vouchsafed to me. I have been singularly happy in my friends, and for that I say "God be praised." I have had exceptional happiness in the profession of my choice, and I owe all of this to you. I have sought success in life, and if, as some one has said, this consists in getting

what you want and being satisfied with it, I have found what I sought in the estimation, in the fellowship and friendship, of the members of my profession.

I have been happy, too, in the public among whom I have worked—happy in my own land in Canada, happy here among you in the country of my adoption, from which I cannot part without bearing testimony to the nobility and the grace of character which I have found here in my colleagues. It fills me with joy to think that I have had not only the consideration and that ease of fellowship which means so much in life, but the warmest devotion on the part of my patients and their friends.

Of the greatest of all happiness I cannot speak—of my home. Many of you know it, and that is enough.

I would like to tell you how I came to this country. The men responsible for my arrival were Samuel W. Gross and Minis Hays of Philadelphia, who concocted the scheme in the *Medical News* office, and asked James Tyson to write a letter asking if I would be a candidate for the professorship of Clinical Medicine in the University of Pennsylvania. That letter reached me at Leipsic, having been forwarded to me from Montreal by my friend Shepherd. So many pranks had I played on my friends there that, when the letter came, I felt sure it was a joke, so little did I think that I was one to be asked to succeed Dr. Pepper. It was several weeks before I ventured to answer that letter, fearing that Dr. Shepherd had perhaps surreptitiously taken a sheet of University of Pennsylvania notepaper on purpose to make the joke more certain. Dr. Mitchell cabled me to meet him in London, as he and his good wife were commissioned to “look me over,” particularly with reference to personal conditions. Dr. Mitchell said there was only one way in which the breeding of a man suitable for such a position, in such a city as Philadelphia, could be tested: give him cherry pie, and see how he disposes of the stones. I had read of the trick before, and disposed of them genteelly in my spoon and got the chair!

My affiliations with the profession in this country have been wide and to me most gratifying. At the University of Pennsylvania I found men whom I soon learned to love and esteem,

and when I think of the good men who have gone—of Pepper, of Leidy, of Wormley, of Agnew, of Ashhurst—I am full of thankfulness to have known them before they were called to their long rest. I am glad to think that my dear friends Tyson and Wood are here still to join in a demonstration to me.

At Johns Hopkins University I found the same kindly feeling of friendship, and my association with my colleagues there has been, as you all know, singularly happy and delightful.

With my fellow-workers in the medical societies—in the American Medical Association, in the Association of American Physicians, in the Pediatric, Neurological, and Physiological societies—my relations have been most cordial, and I would extend to them my heartfelt thanks for the kindness and consideration shown me during the past twenty years.

With the general practitioners throughout the country my relations have been of a peculiarly intimate character. Few men present, perhaps very few men in this country, have wandered so far and have seen in so many different sections the doctor at work. To all of these good friends who have given me their suffrage I express my appreciation and heartfelt thanks for their encouragement and support.

And, lastly, my relations with my students—so many of whom I see here—have been of a close and most friendly character. They have been the inspiration of my work, and I may say truly, the inspiration of my life.

I have had but two ambitions in the profession: first, to make of myself a good clinical physician, to be ranked with the men who have done so much for the profession of this country—to rank in the class with Nathan Smith, Bartlett, James Jackson, Bigelow, Alonzo Clark, Metcalfe, W. W. Gerhard, Draper, Pepper, Da Costa, and others. The chief desire of my life has been to become a clinician of the same stamp with these great men, whose names we all revere, and who did so much good work for clinical medicine.

My second ambition has been to build up a great clinic on Teutonic lines, not on those previously followed here and in England, but on lines which have proved so successful on the Continent, and which have placed the scientific medicine of Germany in the forefront of the world. And if I have done

anything to promote the growth of clinical medicine, it has been in this direction, in the formation of a large clinic with a well-organized series of assistants and house physicians and with proper laboratories in which to work at the intricate problems that confront us in internal medicine. For the opportunities which I have had at Johns Hopkins Hospital to carry out these ideas, I am truly thankful. How far I have been successful—or not—remains to be seen. But of this I am certain: if there is one thing above another which needs a change in this country, it is the present hospital system in relation to the medical school. It has been spoken of by Dr. Jacobi, but cannot be referred to too often. In every town of fifty thousand inhabitants a good model clinic could be built up, just as good as in smaller German cities, if only a self-denying ordinance were observed on the part of the profession and only one or two men given the control of the hospital service, not half a dozen. With proper assistance and equipment, with good clinical and pathological laboratories, there would be as much clinical work done in this country as in Germany.

I have had three personal ideals. One, to do the day's work well and not to bother about to-morrow. It has been urged that this is not a satisfactory ideal. It is, and there is not one which the student can carry with him into practice with greater effect. To it, more than to anything else, I owe whatever success I have had—to this power of settling down to the day's work and trying to do it well to the best of one's ability, and letting the future take care of itself.

The second ideal has been to act the Golden Rule, as far as in me lay, towards my professional brethren and towards the patients committed to my care.

And the third has been to cultivate such a measure of equanimity as would enable me to bear success with humility, the affection of my friends without pride, and to be ready when the day of sorrow and grief comes, to meet it with the courage befitting a man.

What the future has in store for me I cannot tell—you cannot tell. Nor do I care much, so long as I carry with me, as I shall, the memory of the past you have given me. Nothing can take that away.

## FAREWELL TO MEDICAL PROFESSION 289

I have made mistakes, but they have been mistakes of the head, not of the heart, I can truly say, and I take upon myself to witness, that in my sojourn among you—

I have loved no darkness,  
Sophisticated no truth,  
Nursed no delusion,  
Allowed no fear.

# JOHN HOLLIDAY PERRY

## NEWSPAPER LAW

This address was delivered before the International Press Congress held at the Pan-American Pacific World Fair, San Francisco, California, July, 1915. John H. Perry was born in Port Royal, Kentucky, in 1881, and was formerly counsel for the Scripps Newspapers and the United Press Association. He is president of the American Press Association of the John H. Perry publications and of the Publishers' Autocaster Service. Mr. Perry has had large success as an editor, a capitalist and a lawyer.

I HAVE come to speak to you on what I have termed "Newspaper Law." To those of you who are of a legal turn of mind the question will probably suggest itself, what is newspaper law? Generally speaking, it consists of those branches of our laws which apply mostly to newspapers and magazines. There are five branches of this law which compose "Newspaper Law":

First—The Law of Copyright.

Second—The right to privacy.

Third—Civil libel.

Fourth—Criminal libel.

Fifth—Contempt.

No legal writer has as yet seen fit to bring forth any textbook on "Newspaper Law" as such. True, considerable has been written on the law of copyright. Little has been written on the law of the right to privacy. We have three or four volumes on the law of civil libel. In connection with these volumes on civil libel the writers have included a chapter or so on criminal libel—one of the most important branches of the newspaper law, and a law so different from civil libel that it should be separated in its entirety to avoid the confusion which has resulted throughout the country, both in the enactment of legislation

and in the construction placed upon such legislation by the supreme courts of the various states of the Union.

We have a small volume or two written on contempt law. Rapalje has given us a couple of hundred pages, and Judge Thomas, formerly and for many years Chief Justice of the Supreme Court of Missouri, contributed a small volume of about two hundred pages, which volume he has entitled "Constructive Contempt." This work is not the law as it is generally laid down by the various state judicial tribunals of our country. However, Judge Thomas' reasoning is unanswerable, and it shows the fallacious reasoning of the various courts of the country in handing down decisions on constructive contempt.

My purpose in speaking to you on "Newspaper Law," as such, is two-fold: First, that I may convey to you as newspaper men and women some of the most important general principles of "Newspaper Law." Secondly, my purpose is to try to crystallize all the five branches of the law, that of copyright, right to privacy, civil libel, criminal libel and contempt, into one law known as "Newspaper Law." There is to-day an urgent need to have these five branches of the law, in so far as applicable to newspapers, crystallized into one law, to be known as the "Newspaper Law." The supreme importance of the newspaper business itself is a sufficient necessity for such action.

The most potent, the most influential and the most useful business of to-day is the newspaper business. The newspaper and the magazine as an institution is the most indispensable institution in our land to-day. In fact, without this institution we not only could not expect to progress, but our institutions for freedom of this day and age would crumble in the tomorrow.

There is need for a codification of the newspaper laws which would be separate and distinct from the same laws when applied to individuals. This is quite apparent on its face. For instance, the newspapers and magazines are no longer local in their influence. They are national in their circulation, therefore in their influence. You go down upon the streets of our city to-day, and you can find for sale newspapers and maga-

zines from every large city in the world. And, again, the great disseminators of the news service are not at all local in their operation. You might say that the news of the entire world is to-day disseminated by five or six enormously large institutions sending forth their telegraphic service. I refer to the Reuter Telegraph Company, which covers Great Britain, the British Empire, and the British Provinces; The Wolf Agency, which covers Germany, Scandinavia, Austria and all of their Provinces and allies; The Havas Agency, which covers France and the Latin countries and their smaller allies, countries and provinces. Then, in America, we have the Associated Press, a New York corporation, which furnishes practically all of the great morning papers throughout the country, and many afternoon papers, and the United Press Associations of New York, which, under the capable management of Roy W. Howard, its "live wire" president, has grown like a "prairie fire." To-day it furnishes about six hundred daily afternoon papers throughout this country. So here is an instance of five telegraphic news agencies which gather and send forth the news of the entire world to the people of all the world. So news gathering is not local, but it is international. The dissemination of news is hardly a local question, but a national and an international problem, and the newspapers and magazines of to-day have grown to such an extent that the printing only of those papers and magazines is local. They are published broadcast throughout the many states, and in a large number of instances their circulation encircles the entire globe.

You publishers who are making the newspapers of to-day are making the history of to-morrow.

Our various states have codes of laws applying to every phase of every business and every profession from that of selling garden seeds for agricultural purposes, or regulating the massaging of the spinal column only by licensed Osteopaths, to requiring that only Allopaths with sheepskin attachments may prescribe pills for the ills of the people. We have our code of banking laws, our penal code, our fishing code, the inn-keepers' code, the mechanics' lien code, and the merchants' or negotiable instrument law. We have codified about everything and everybody excepting the newspaper law.

It is to be regretted that all of our various codes were not enacted along the same line of procedure as was our negotiable instrument law so that there would be a uniformity in the laws among the various states of the Union. The negotiable instrument law is a product of many years of profound thought on the part of many master minds. After its enactment as a part of the law of England, the American Bar Association, through some of its ablest members, was induced to take up the matter of securing its adoption without amendment or change in the various states of our Union. With this end in view, after this law was fairly well perfected, it was submitted to the various states and its adoption was urged *in toto*. It was pointed out that it should not be amended or altered or changed in any manner for the reason that one of the great purposes of this codification of the negotiable instrument law was to obtain uniformity throughout the various states. It has been enacted and become a part of the law of the majority of the states of the Union. The beneficial result of this is that it has made the law the same in every state wherein it has been adopted. It has standardized the law of negotiable instruments, which is supposed to be nothing more than the custom of the merchants and business folk of the country. And, again, the great benefit of this law is its stability and permanence, from which has resulted a common knowledge of the law merchant.

With our system of law making through our state legislative bodies we confront the situation that as these bodies assemble in the various states annually or bi-annually the laws are changed, abrogated, amended or repealed, or conflicting statutes are enacted in contravention of the spirit or letter of previous statutes to such an extent that the result is a confusion which has prohibited not only the public, but even the lawyers and the judges themselves from knowing what our law is to-day. We may fill our statute books with excellent laws, but there is something more important, and without which our excellent laws are of little avail or usefulness, and that is the knowledge of the laws. There is an old maxim, that "ignorance of the law is no excuse"; that "everyone is presumed to know the law." Of course, such a presumption is absurd upon its face. Very few people have a full knowledge of any of our laws,

none of them has a knowledge of all our laws, and many of them know nothing of our laws. You ask the reason why. It is this: That under our present system of legislation our laws are changed so frequently, amended so often, and drawn up so haphazardly, and chiefly are either class or political legislation. While our legislators are in session no living human being knows what the laws may be to-morrow. And to know what they are to-day it is necessary to read the latest edition of your daily papers. The average legislature proposes more than one thousand new laws in every state of the Union at every session. Many of these bills actually become laws, and still you are presumed to know what is the law. The crying need of to-day is for fewer laws, but those laws which we have let us have perfected.

Now, when I advocate the codification of the "Newspaper Law" I am not having in view a codification of those laws in the haphazard manner in which the legislature of this state, or of the various other states enact such laws. What I suggest is this: That a national commission be appointed to draft and perfect, as nearly as it is within human power to do so, a newspaper code covering the various branches of the law applicable to magazines and newspapers, and, after the master minds of our country perfect such a code, that it be submitted to the people or their representatives in the various states of the Union for enactment, with the distinct understanding that to reap the benefits of this law it should be enacted without change or amendment so that this code of laws would become uniform in all of the states of the Union. And then, after we have perfected our code of newspaper law, let it remain in force and effect, because only by being a permanent law will the newspaper men and the public in the years to come become possessed of a knowledge of that code of laws, and a knowledge is the only thing which makes such a law of value. If the laws are to be changed at each session of the legislature no man can be reasonably expected to possess a knowledge of those laws. It is only when they become perfected and are enacted as uniform laws throughout the country that it tends to become public knowledge. Our haphazard enactment of laws has destroyed the uniformity of our laws, and continued the public in igno-

rance of the laws, which has resulted in loss of respect for our laws. And then we cry, why do the people have no respect for our laws? A law which is enacted into the law of the land as perfected and based upon common sense and common justice, and is allowed to remain sufficiently long for the public to acquire a knowledge of such laws will result in profound respect on the part of the public for such law. How can the public have a respect for that which they know not? Ignorance breeds contempt.

There is hardly a session of the legislature in any state of our Union but what the members of that assembly introduce from one to a dozen bills amending, repealing or changing many of the fundamental laws concerning newspaper and magazine publications. Such proposals are not confined to the state legislature, either. We had the aspect in the last Senate of the United States by no less a personage than Senator John B. Works of California, proposing a law in that august body to prohibit newspapers and magazines printing or publishing in the District of Columbia any news whatsoever of any crimes, or any accidents, or any gossip in that District.

In the legislature of each state you will find one or two of the extremes—either one that is extremely radical in favor of an unbridled or unmuzzled press, or one that is against the principles of a free press at all. If some legislator has been a pet of the newspapers of the district from which he was elected, if they have written stories about him that have made him believe he is a great statesman and an indispensable personage to his people, then he will advocate the abolition of any restraint or limitations whatsoever upon the laws regulating newspapers and magazines. If, on the other hand, he has been subjected to criticism, no matter how justly, if he has been branded by some newspaper as a gangster or a shady politician, or a ward-heeler, no matter how truthfully, then, no matter how radical an act may be to suppress legitimate news and destroy the freedom of the press, you will find that class of legislators doing their utmost to enact such legislation against newspapers and magazines.

We have an example, for instance, in one state, where one session of the legislature which was extremely bitter against news-

papers in general, and wishing to punish certain newspapers in particular, enacted a law which prohibits the publication of photographs of private persons, or anything else pertaining to any private citizen of the state without the written permission of that citizen, and requiring every article published to carry the name of the writer. As a result, the enforcement or attempted enforcement of such legislation soon causes the pendulum to swing the other way and then the legislature, acting at the other extreme, removes all brakes and permits the publication of anything they see fit and not prescribing a just punishment for the abuse of such a privilege.

Thus, as a result of this haphazard legislation on the part of the various states, you will be able to find decisions holding just about any viewpoint you may wish to sustain, and I regret to say that you will find them in too many instances colored by political influence.

In fact, it is no exaggeration to say that in so far as it is within their power they formulate two rules of law—one for their political friends and another for their political enemies. And you will find this more or less true in a great many criminal as well as civil libel prosecutions throughout the United States. A uniform newspaper law code would largely abolish this evil. It would estop class legislation and eliminate all sinister political influences from newspaper legislation.

The one branch of the newspaper law which is more uniform throughout the states than any other, more uniformly interpreted and better understood, is the law of copyrights. This, for the reason that the Congress of the United States has enacted a copyright law—a very fair and just law. As all of the newspaper fraternity know, the purpose of the copyright is to guarantee to the producer a safety against the larceny of his original thought or original language. Of course, in many instances the line of demarcation between piracy of one's language and thought is most difficult to discern. It is impossible for the law to prescribe more than a general rule of conduct governing the appropriation of one's language or one's thought. It is a field in which each particular case must be decided more or less upon the particular facts of that case. However, I do want to condemn the practice of any editor or pub-

lisher in publishing his paper with his hand and a pair of scissors rather than with his own brain and a lead pencil. Of course, language is only the carriage in which thought rides. It is impossible to copyright thought as a separate and distinct entity. It must be carried, and its carriage is the human language in some form expressed. But, Mr. Publisher, if you should leave this hall and going out upon the street you should find there a carriage belonging to one of your fellow-publishers, and you get into the carriage and parade around among your clientele in his carriage as your own, deceiving your clientele, and not even giving your fellow-publisher credit for his carriage, you are guilty of the larceny of a valuable piece of property. Just so with the publisher or editor who goes into his office and finds there upon his desk an article written by a fellow-publisher in a paper belonging to a fellow-publisher, containing that which was the original thought and language of the fellow-publisher. He reads over the language—and language is merely the carriage of thought—and he takes his scissors and clips out that article and publishes it in his own paper, without giving his fellow-publisher any credit or without having any authorization so to publish it; he is guilty of literary piracy, and a thief of that man's language and that man's thought, and he is parading before his clientele in a stolen garb. He is a "thought-thief" and should be made to suffer the punishment the same as the man who steals a carriage or a motor car.

Another branch of the newspaper law, the use and abuse of the privileges which make more plain the necessity of a codified newspaper law, uniform throughout the states, is the second branch of the "Newspaper Law"—that of "the right to privacy." The right to privacy is "the right to be let alone." I will only briefly outline the history of this law for the purpose of showing you the tendency on the part of legislators and the feeling of the public about the abuse of one's right to privacy. One of the first cases involving the principle of the right to privacy was the case of Prince Albert vs. Strange—an old English decision. Strange was an artist, and Albert of royal family. The Prince and his wife employed the artist to perform some work for them—photogravures, etchings and paintings. After

the work was completed Strange attempted to exhibit some of the copies to the public and to dispose of some of the works which he had completed for Prince Albert and his wife. Prince Albert sued out an injunction, and the injunction was made permanent. From this the question began to expand, as to how far one was entitled to a right of privacy—a right to be let alone. The court held in that case that there was such a right to privacy when such a right was based upon either a contractual or confidential relation, or when it was based upon a property right.

In 1889 Louis D. Brandeis (now the brilliant Boston lawyer), while a student in Harvard University, in conjunction with Samuel B. Warren, wrote an article on "The right to privacy" and published same in the *Harvard Law Review*. He attempted to show that the right to privacy should be extended beyond what the courts in England had held in the case of Prince Albert vs. Strange. He argued that where common justice and common reason could be supplied it was incumbent upon the courts to make whatever legal deductions were necessary from established principles, and to enlarge the scope of the law by such reasoning. And he attempted to enlarge upon the law of the right to privacy so as to include within its purview a prohibition against the invasion of one's privacy where it inflicted an injury to one's "feelings." The courts in the New England states have profound respect for the *Harvard Law Review*, and apparently many of the judges adopted Mr. Brandeis' viewpoint and judicially legislated into the law of the New England states an extension of the right of privacy beyond the right to privacy established upon a contractual or confidential relation, or a right to privacy established upon a property right. From the New England states such extension of the right to privacy began to spread and have its ramifications through many of the Middle Western and Southern States, notably in a case that went to the Supreme Court of the State of Georgia, because of an invasion of one's privacy in an article and photograph printed in an Atlanta paper. In that case the supreme court of the state even went so far as to say that as a principle of law the right to one's privacy was not only based upon a contractual or confidential relation

or a property right, but upon the more sacred right of an invasion against an injury to one's feelings. Of course, such an extension of the right to privacy as to cover one's feelings independently of his right based upon a contractual or confidential relation or property right endangered the very foundation of a free press. But this question was more or less positively settled by the court decision of Chief Justice Alton B. Parker, of the Supreme Court of New York State, in a very lengthly decision, when he emptied into the crucible all of the decisions on the right to privacy and all the contentions which had been advanced for the purpose of embellishing upon this right, and brought forth a fairly well crystallized opinion which drew the line of demarcation over which a publisher must not go, and over which the public must not be expected to be protected. He refused to extend the doctrine of the right to privacy to cover an injury to one's "feelings."

I have had occasion to go before the Supreme Court of the State of Washington on cases involving the right to privacy and where the point involved was that of the publication of a photograph of a private individual in connection with a member of his family who had been committing a series of frauds against the United States through the mails. It was maintained that as everything within the article was true, and, as the publication of the photograph was an exact likeness, upon the principle of the civil libel law that the truth was an absolute defense to this action in so far as a civil libel action for damages was concerned, they were estopped from proceeding upon action for damages by reason of any libel. However, ingenious counsel attempted to found an action upon "the right to privacy," and in arguing this case before the Supreme Court of this state one of the justices of the court asked me whether or not the publication of the photograph could have been productive of any good, and I answered that, for the sake of argument, I would say it could not. Then, further inquiring, the Justice said, "What is to prohibit this newspaper from publishing this picture every day?" I replied that the criminal libel law of the state could prohibit it. A repetition of such a publication would be a criminal libel and punishable as such.

Now, that brings me to the point of our libel laws. Some

people, not only editors, have the idea that a newspaper can publish any truth; that they can publish the truth so long as it is the truth, no matter what they publish. This is not the law in so far as a criminal libel action is concerned. The truth of an article is an absolute defense to any civil action for damages. No matter what your paper publishes, if it is true, the aggrieved party may not obtain any damages for such truthful publication, and this is founded on reason and common sense. If an article published contains only the truth of a man's character or his business no man can reasonably expect to recover damages because it would only be common sense that he would not be entitled to damages for a false character or a false business. On the other hand, if an article published be false, no matter how good your motives nor what end you have in view, if that article has damaged another's character or damaged another's business, you ought to be held liable for the amount of damage which you have inflicted upon either his character or his business. This is on the same general principle of damage law that you are responsible and bounded in damages for your mistakes, even though they be honest mistakes, and if you make an honest mistake in your newspaper business and because of that honest mistake your fellow man suffers, you should compensate him in damages in a reasonable amount for such damages incurred by your mistake, however honestly it may have been committed. And the law further is, if it is a dishonest mistake and you maliciously printed false matter about his character or his business he may be allowed, aside from actual damage, a damage which will teach you a lesson and be a strong incentive for your guidance and proper conduct in your future publications.

Now, let us take up the Criminal Libel Law.

As I stated a while ago, there are four or five so-called authorities on the law of libel. They deal almost entirely with the law of civil libel. There are only a few pages in any of these text-books on the law of criminal libel. The law of criminal libel is one of the most important branches, if not the most important branch, of the newspaper law. In fact, there is no branch of any of our laws, newspaper or non-newspaper, which plays a greater part in our struggle for a free press and

free and self-governing institutions throughout our land, and in fact throughout the entire English speaking world, than that of criminal libel. As I stated, you can print the truth, no matter what it is, and not be bounded in damages in a civil libel action. But you may not print the truth in all cases and not be holden responsible for it at the bar of justice in the name of the commonwealth. Less than a century ago the maxim was "the greater the truth, the greater the libel." Can you conceive in this land the enforcement of such a law as "the greater the truth the greater the libel"? Nevertheless, such was the law, and within the last half century. The truth was no defense to a criminal libel. That was the law in all cases. Just think that maxim over two or three times, and then feel your pulse. Not only was this the law that it was a crime to publish the truth, but in our Colonies no newspaper could publish the proceedings of the General Assembly. Their session was a star chamber session, and it was a crime punishable by imprisonment for any publisher to publish to the public the proceedings of their Colonial assemblages. What would you think to-day if under the maxim "the greater the truth the greater the libel," there was imposed a prohibition against the publication of the acts of our legislative assembly? Now, I want to say, and to say emphatically, that there are certain things, to publish which it would be a crime even though true. For instance, to publish of one in private life that he was a little hunchback, sore-eyed, one-legged idiot. Such a publication, though true, would hold him up to public contempt, scorn and ridicule. The mere truth of the article is not and should not be a defense in a criminal prosecution based upon such a dastardly, cowardly, contemptible publication. And there are many things in your domestic life and in your private life the publication of which would hold one up to public contempt and scorn, ridicule and obloquy, without doing the public any good. So I say, that the publisher who publishes such articles, though true, should be prosecuted criminally, and the truth should be no defense. In fact, in that limited number of cases the rule of law is and should always be that "the greater the truth the greater the libel." And it is just such instances of abuse as the publication of this sort of articles which has roused a de-

mand throughout the country for an extension of that law of the right to privacy, because there is a feeling on the part of the public that one's privacy should not be invaded, and that the law should protect him and punish the editor or publisher for such unwarranted invasion of the right to privacy. But, rather than extend the law of the right to privacy to giving the "little hunchback" redress in court against an article published about him, enforce your law of criminal libel to the extent that even though the article be true it must be published with good motives and for a justifiable end.

In many states of our Union, and our own state, they have what is called a Defensive Libel Statute, which says that the truth published with good motives and for justifiable ends is an absolute defense to a criminal libel action. The statute is misconstrued and is misleading. The truth, published with good motives and for justifiable ends, *is* an absolute defense for prosecution for criminal libel. But, even though an article be absolutely false, if the article was believed to be truth and such belief in its truth was based upon a reasonable and careful investigation and was published with good motives and for justifiable ends, then such facts should be an absolute defense, regardless of whether the article was true or false. However, I have found in my practice throughout the country in a large number of states having a similar statute as to the defense of a criminal libel prosecution, that the courts do not seem to grasp the intent of that statute. In trying one case before a Common Pleas judge, he made the statement from the bench that he would require me to prove in defense three things: (1) that the articles published were absolutely true, (2) that they were published with good motives, and (3) that they were published for a justifiable end. And, continuing, he informed me that he would not permit me to show the good motives and justifiable ends until I had first established the truth of every word of the articles. This judge was a graduate of Harvard Law School, and smoked Monogram cigarettes.

The truth or falsity of an article is not the test of the criminality of the article. The criterion of criminal libel is malice. In the course of your experience as newspaper people, can't you recall a thousand false articles which you have printed and pub-

lished which you honestly believed to be true at the time you printed and published them; that you not only honestly believed them to be true, but that you had a fair and reasonable investigation made to ascertain as to the truth or falsity of the article? How, then, in the name of common sense and common reason, can you make a criminal out of a publisher who has published an innocent falsehood? Despite the apparent simplicity of understanding that an article may be false and still not be a crime, I have found, all over the country, court after court confronting me with the proposition that there were absolutely three essentials to be proved before it would be a defense to a criminal libel prosecution, and that the first and foremost of these was that the article must be true. If the article was innocently false, let the man whose character or whose business was injured seek his redress in a civil suit.

Now, lastly, there is that branch of the newspaper law known as contempt.

Newspaper contempt is what in law is known as constructive contempt—that is, a contempt committed out of the presence of the court. In other words, the publication to the world of an article which the court or judge himself deemed to be a contempt of his court or of himself. It is most important that this branch of the newspaper law known as constructive contempt be codified and made uniform throughout the states of the Union. This would evade the pernicious political influence which pervades nine out of ten of the cases of constructive contempt. For a constructive contempt, or a newspaper contempt, the supreme court of this state has held that it has the right to punish the contemner by the infliction of a jail sentence for a period of months.

Now, let us examine into the reason, if there is any, of the power of the courts of record of this state to inflict such punishment. I might say that between 1800 and up to 1831 the United States courts attempted to inflict punishment in the form of fines and imprisonment against editors who published things which the court held should not have been published, and that for a period of twenty-five years seven very important contempt cases were heard before seven respective judges and, of course, in each instance the court determined the accused

was guilty and either fined or imprisoned the publisher. This resulted in such a storm of disapproval on the part of the people that, in 1831, James Buchanan introduced in Congress a law to abolish absolutely the power of the federal courts to punish for "constructive contempt." So, to-day, we have the spectacle of our superior courts, and our supreme courts of this state with a power entrusted into their hands to inflict punishment for a constructive contempt of their court, when the federal court was deprived of such power because the people deemed it a dangerous power to entrust into the hands of a court, if such a power was ever entrusted into their hands. So, since 1831, no federal court has ever attempted to exercise authority over a constructive contempt of court until in the year 1914, when a federal judge in Ohio attempted to and did exercise such authority in the case against Editor Negley Cochran, of the *Toledo News-Bee*. When this Act of Congress was passed, James Buchanan, on the floor of the House, made the statement that never in the future history of the American states would any federal judge dare to usurp such a power as that of punishing for a "constructive contempt." However, the federal judge in Ohio seems never to have read the history of the contempt cases, nor the Act of Congress forever abolishing the right of those federal judges to arbitrarily and summarily inflict punishment for a constructive contempt. If he has, he has taken the very Act of Congress which was intended to forever prohibit federal judges from the punishing of constructive contempt and has construed it to mean the delegation of a court power which the act itself intended to forever destroy.

Now, let us come down to the origin of the right of the courts of this state to punish an editor for a constructive contempt. I read the other day the case against the editor of the *South Bend Journal*—Mr. Hazeltine—a so-called constructive contempt case. The supreme court of this state reversed the conviction of the lower court on a technical ground, but during the course of their decision they refer to their inherent right to punish for a contempt of court. Now, I want to say, I yield to no one in my respect for honest and fair members of the judiciary. I have as much respect for an honest judge as any honest lawyer has, but I will not let my respect blind me to the right-

ness and wrongness of a legal principle which is most fundamentally important. The Supreme Court of this state says, "We have the inherent power to punish for contempt," and they make no distinction between a direct contempt and a constructive contempt. I do not question their power or their right to punish for a direct contempt—that is, a contempt committed in their presence, or a contempt for violation of a legal and lawful order issued from their court. If anyone goes into the confines of a court room and his action is not respectful to the court, or if his action disturb the orderly proceedings of that court, such a person should be punished commensurately with the heinousness of his offense. But, I do question the right of a court to punish for a "constructive contempt." They say they have the inherent power. Now, let us see what *inherent* power they have. The first article of the Bill of Rights of the Constitution of the state of Washington says: "All political power is inherent in the people, and governments derive their just powers from the consent of the governed." The people of this state, when it became a state, assembled in a constitutional convention. They formulated, created and brought into existence three forms of our government. They said, "There shall be an executive department with certain powers, a legislative department with certain powers, and a judicial department with certain powers." If anyone should go into the legislative assembly and obstruct the due administration of the legislative proceedings, that legislative body would have the right to adjudge the intruder in contempt of that body and punish him accordingly. If an obnoxious person would intrude into the chamber of His Excellency, the Governor of this state, and embarrass or obstruct the due administration of the executive official of this state, His Excellency the Governor would have the power to summon anyone and create him instanter a peace officer to inflict summary punishment upon such intruder. But, we do not find that this power for contempt extends to such a contempt as is in law called "constructive contempt." The only power that the judges of this state and the courts of this state have is the power which the people have conferred upon them. They have no inherent power. They get their power from the consent of the people who are governed.

The courts say such a power to inflict punishment for this contempt is necessary to their very existence. I deny the truth of such a statement. The Supreme Court of the United States, which has been referred to as the greatest and most deliberate body in all the world, has been criticized bitterly in many of its decisions—notably in the Income Tax cases, the Insular cases, the Dred Scott decision, and numerous other decisions—and for more than a century that court has sat silently and serenely in the face of those various attacks and criticisms on the part of newspaper and magazine publishers, and has never seen fit to invoke the so-called power of punishing for a constructive contempt of court. If the Supreme Court of the United States can move along smoothly for more than a century without the necessity of ever invoking such an alleged power, it seems to me that the so-called reason of necessity is no reason at all, for there is no necessity for such a power.

Now, I want to ask you what would you think if the Governor of this state, during the pendency of some matters of public interest before him, picked up a newspaper and saw some bitter criticism of his conduct or official acts in connection with this pending matter, and it was so distasteful to him and so provoked him that he immediately sent out and cited the publisher before him on the ground that the publisher had committed a contempt against the executive officials of the state of Washington, and the publisher appears before him and the Governor gives him this sort of a trial: "Mr. Publisher, you have criticized my acts on this matter now pending before me; you have embarrassed, impeded and obstructed the due course of my official business; I cite you for contempt. What have you to say for yourself?" The publisher says, "Well, I suppose I have, what will you do to me—what punishment can you inflict?" "Well, I can mete out six months' imprisonment to you." "It seems to me that I am being tried for the commission of some crime. If I am, I demand that I be either informed against by the Prosecuting Attorney or indicted by a grand jury; that I have a copy of the indictment against me, with all witnesses' names endorsed thereon; that I be arraigned in court so that I may know exactly with what crime I am

charged. I demand the right to refuse to incriminate myself. I demand the right to have witnesses for and on my behalf and to the confrontation and cross-examination of all witnesses against me. I am presumed to be innocent until proved guilty beyond every reasonable doubt. I demand the right to a fair and impartial trial before a jury of my peers, and let them judge whether or not I am guilty." "Oh, no, Mr. Publisher, you are not accorded such a privilege. You haven't any such constitutional rights; the Constitution did not mean that when it said no man should be deprived of his liberty without the due process of law. This is not a criminal case; this is what we call a 'quasi-criminal' case, so that you are not entitled to a jury trial and constitutional safeguards." Now what would you, Mr. Publisher, think of such a trial and such punishment as might be inflicted by the Governor of the state because he deemed he had been criticized, and that thereby constructive contempt had been committed against him? Oh, you would have screaming headlines about the injustice of it all. The court has no more inherent power than has the Governor.

I want to advance this proposition: As a friend of the court, I want to submit that if the court desires to be respected it never attempt such a procedure to punish for constructive contempt. I want to submit the suggestion that, a cold-blooded murderer, a porch-climber, a burglar, one who trafficks in the souls of girls, and the vagrant, are all granted their constitutional privileges and rights of a fair and impartial trial, before a fair and impartial judge and a jury of their peers. Can it be possible that all the scum of the earth are entitled to these privileges, and the editor who fights for what he honestly believes to be true, with good motives and justifiable ends, yet may be branded a criminal and imprisoned in a bastille for the sake of sweet revenge at the hands of some judge who believes a publisher or editor has unfairly criticized him?

# ROSCOE POUND

## THE TASK OF THE AMERICAN LAWYER

Roscoe Pound has been dean of the law school at Harvard University since 1916, and is generally recognized as one of the most profound and stimulating interpreters of the law. He was born in Lincoln, Nebraska, in 1870, began the practice of law in 1890, has been professor of law in the universities of Nebraska, Northwestern, and Chicago as well as Harvard, and is the recipient of honorary degrees from many universities. This address was delivered to the Chicago Bar Association at Chicago November 12, 1925.

A RECENT editorial in a conservative metropolitan newspaper, after commenting on the crisis in American law and the palpable inadequacy of our legal machinery in our large cities to the tasks of administering justice and maintaining the general security in the urban industrial society of to-day, reminded the legal profession that the legislatures are filled with lawyers (it might have been more accurate to say filled with members of the bar) and yet the net product of their activity is but to add to the density of what the editor was pleased to call the legal fog. The conclusion was that "the business men and workers" of the country would have to take hold, and, by some means not specified, give us an effective organization and administration of the public agencies of justice.

This is not a new idea. Some years ago, when our mechanical application of constitutional provisions to social legislation demanded by public opinion, led to widespread dissatisfaction with the doctrine of supremacy of the law, there was agitation for popular review of judicial decisions. After the Revolution, when transition from the simple conditions of colonial America to the era of economic, territorial, and political expansion put a heavy strain on the administration of justice, there was clamor

for lay judges, for an American code to be made without regard to the legal experience of the past by sheer American common sense, and for a wholesale rejection of what agitators were wont to call the quirks and quibbles of English law. Indeed, this agitation has left its mark upon our institutions in inadequate provisions for the training of lawyers, in exaggerated powers of juries, and in fetherings of trial judges, in more than one of our commonwealths. More than one unhappy feature of American administration of justice which is a factor for ill in the conditions of which complaint is made so justly to-day, is a result of short-sighted, ignorant application of lay common sense to difficult problems of law and of judicial organization and administration, which called not for common sense, but for the uncommon trained sense of experts.

Again, when the elaborate, formally over-refined, cumbersome, expensive common-law procedure of the eighteenth century required overhauling with the rise of commercial litigation, the rise of tort litigation, and the demand for expedition in a time of economic growth and a land of push and rush and restless change, lay common sense was invoked once more by an impatient public, confident in American versatility and affected, it may be, by the cult of incompetency which is an unhappy by-product of democracy. More than one bad feature of the reform of American procedure that swept over the country after 1850 is traceable to lay application of the legislative steam roller to problems that did not admit of that sort of solution. And this is even more true of our administration of criminal justice. Nowhere has lay insistence upon legislative tinkering with details, without regard to the legal setting of those details, been more continuous and persistent; nowhere have the courts been more tied down by minute and detailed provisions than in criminal law and criminal procedure. When complaint is made as to the multitude of laws and bloated statute books, it should be remembered that the pressure for more laws and the annual infusions that bloat the statute book come not from lawyers but from laymen. Those who cry out loudest for fewer laws are often the first to urge upon the legislature some new special legislative project which, like one of Rip Van Winkle's drinks, is not to count.

When farmers, feeling acutely the results of some economic maladjustment, propose to apply their common sense to economic affairs and embody the product in legislation, they are pronounced visionary radicals. Suppose lawyers were to say to the medical profession: You have been at work on cancer quite as long as we have been at work on legal problems of over-grown American cities. You have had enormous sums and elaborate facilities for research. You have announced many discoveries. And yet people go on dying of cancer in increasing numbers. Therefore, we must turn this problem of cancer over to the business men; by the application of business methods and common sense they will deliver us from this scourge. If any of us were to speak in this wise, he would be held to be simply absurd. Yet it does not appear radical or visionary or absurd to suggest that legal and judicial experience and the lessons and warnings of legal history and the results of legal science may be thrown into the waste basket and the solution of delicate and difficult problems of adjustment of human relations and regulation of human conduct turned over to those whose experience and training are in wholly different fields.

Lawyers are not without blame for the prevalence of ideas as to lay competency to overhaul the law and achieve effective reforms by legislative formulation of the general will. With us, the lawyer's classical political theory is one of law as declared popular will. It does not distinguish the source of the law's authority from the formulating agency behind the law's precepts. It gives the impression that the words, "Be it enacted," suffice to justify everything that follows. On the other hand, our current juristic theory is historical. It holds that law cannot be made consciously or deliberately; it can only be found. It is skeptical as to the efficacy of conscious effort at improvement. It expects law to grow as spontaneously as language. It expects legal institutions to evolve themselves by the inherent power of the idea of right or idea of freedom, unfolding in human experience. In consequence, it transfers the reverence which is due to the legal order from that legal order to the precepts for the time being by which we seek to uphold it. It blinds lawyers to the ill functioning of those precepts. It leads them to overlook possibilities of doing things better

and achieving the ends of law more efficaciously with improved legal machinery. It tends to sanctify in their minds the details of legal precepts and leads them to assume that in touching any of these precepts, even on the most palpable grounds and for the plainest purposes, the legislator is endangering the social fabric. On the one hand, we have a theory which invites lay tinkering. On the other hand, we have a theory that decries professional activity to improve the administration of justice and leads the lawyer to assume an attitude of obstruction where he might easily take the lead in constructive exercise of creative activity.

It is worth while to recall that if lawyers have to their credit great achievements in the working out of a common law in England, and later in the adaptation of that common law to America and the reshaping of its materials to the requirements of life in the new world, they are chargeable with great mistakes in their attitude with respect to nearly every important movement for improvement in the administration of justice in our legal history. When common-law lawyers extol the jury it is well to remember that the author of the *Mirror of Justices* set it down as an abuse that Englishmen were no longer permitted to try issues of fact by battle but were driven by law to submit issues to a jury. When we look with pride upon the liberalization of the legal system by means of equity, we need to remind ourselves that when the jurisdiction of chancery was formative, it was bitterly resisted by common-law lawyers, and that when in this country, in the last quarter of the nineteenth century, the last of our commonwealths finally gave complete equity jurisdiction to its courts, the act was vehemently opposed by the most learned and eminent judge in the state—a justice of the Supreme Court of the United States—who prophesied many ill results, all belied by the event. When we claim credit for the development of commercial law at the end of the eighteenth and in the nineteenth century, and admire the effective strokes of Lord Mansfield to make straight the paths of justice in commercial affairs, we must not overlook that one of the most liberal of American lawyers resisted adoption of the common law for his state, as of the time of the Revolution, because of objection to what he

called "Mansfield's innovations." We must remember that the legislative reform movement in nineteenth century England, which is now justly taken to be a land-mark in legal history, was fought inch by inch by some of the ablest lawyers of the day and was regarded with abhorrence by lawyers whom the profession still reveres.

Our own relatively short history tells the same story. The Constitution of the United States is one of the outstanding documents of Anglo-American law. It is justly revered by the lawyers of to-day. But when it was first drawn and was submitted to the people for ratification, it encountered the most determined opposition from the leaders of the profession. The lawyers who favored it were young and of little experience or standing. Eloquent speeches against it were made by lawyers whose fame still endures. Moreover the grounds of their objection were that the instrument would be dangerous or even fatal to liberty; whereas to-day lawyers have come to recognize it as the chief safeguard of liberty. Again it is instructive to read what lawyers had to say when married women's acts were first proposed; what they had to say when statutes first gave rights to mothers with respect to custody of their children; what they had to say when homestead laws were first enacted and what they prophesied when common-law procedure was overhauled in the middle of the last century. To come to recent times, we need to compare with the foregoing the report of a group of eminent New York lawyers when a project for amendment of the state constitution, so as to admit of a workmen's compensation act, was before the people of that state. Truly, not the least warning of legal history is one against confident prophecy of disaster when changes are made in the law. The very spirit of the profession that leads to these prophecies is our best guaranty that they will not be fulfilled.

In law as everywhere else, we must rely upon those who know the problems to be met, know the materials with which they are to be met, know the art of the craft that will apply the materials, and know something at least of the experience of the past out of which those materials have been wrought. And yet, so long as lawyers persist in an attitude of juristic pessimism—so long as they decry the doing of things by laymen

and do nothing themselves—we must expect the public to strike out blindly in the endeavor to do the best they may, when bad situations arise and are suffered to continue. Ours is not the only profession which from time to time has had to be reminded that it is a practical profession charged with attaining practical results. Charlatans and quacks and miracle workers have more than once had to wake the medical profession from a period of pedantic dogmatic slumber. The military profession has been rudely awakened more than once when volunteer non-professionals have led the way while professionals were waging wars of the present with the tactics and armament of the past. It has happened more than once that a movement from the outside has led to advance in naval operations, when the professionals had become fixed in an obsolete routine. These things do not mean that we can put our trust long or much in the non-professional. In a highly specialized world the tendency is toward more rather than toward less reliance upon the specialist. There is the more reason, therefore, why the professional in every field should feel bound to look at his profession functionally. It does not exist for its own sake. It is a means toward human ends. How far it achieves those ends and how far it falls short and why, must be his constant study. And this will lead to study of how far it may achieve them better and by what means. Panegyrics upon law in the abstract, lectures on the Constitution, and exhortations to obedience of law, will do nothing in comparison with intelligently directed effort to ascertain how the law works, where it does not work and why, and how it may be made to work. Only when this has been done and done well shall we make enduring progress toward a régime of universal respect for the legal order.

Respect for law in the sense of respect for the legal ordering of relations and of conduct, which are at the foundation of civilized society, does not mean that particular legal precepts or particular legal institutions are to be beyond question. Law is the strongest agency of social control. It bears the brunt of the task of maintaining, furthering and transmitting civilization. This is a universal task. The task of particular precepts and particular institutions, on the other hand, by which we seek to maintain the legal order in any given time and place,

is relative to time and place and men and economic and social conditions. An inquiry into how far they are adapted to the time and place and men and economic and social conditions, is always in order. For, when we speak of the law as sacred, it is not the law as an aggregate of rules of law that we have in mind but law in the sense of the legal order. In truth, we may easily injure the legal order by regarding each item of the body of legal precepts for the time being as sacred. Sooner or later each particular precept will change or become obsolete or be superseded, and yet the legal order may remain unimpaired. The ambiguity of the term "law," that makes it easy to think of law as only a body of rules of law, is quite as much a menace to the legal order, on one side, as over-confident lay trust in legislation is upon another side.

If by "law" we mean the organized mass of materials by which justice is administered in the modern state, law is made up of three elements. First there are legal precepts—the element we have in mind when we think of law as an aggregate of laws. The analytical jurist has his eye on this element when he frames his theory of law as the command of the state. It is because the legislator has his eye exclusively on this element, and mistakes it for the whole, that he so often fails in his well-meant endeavors to make laws. In the application of the precepts he has devised so ingeniously and formulated so carefully, some things constantly come in to the result which his calculations had left out of account. Trained in a theory of law which also leaves them out of account, he is not unlikely to assume that dishonest or inefficient officials or a bad machinery of justice, or inherent bad tendencies in the legal profession, or a decadence in the morale of the people, or all these things, are chargeable with the miscarriage. But it is more than likely that the intruding and disturbing element is the law itself, into which his legal precept did not fit and to which it has had to be adjusted.

A second element of law is a traditional art of the lawyer's craft; a traditional technique of working out the grounds of deciding particular cases on the basis of received legal materials; a technique of applying legal precepts and of working out their limits and developing new ones to meet cases to which existing

precepts are not adapted or for which no precepts are at hand. This is the element we have in mind when we say that law is found, not made. The historical jurist has his eye on this element when he defines law as custom. This is the most enduring and most characteristic element in any system of law. It gave continuity to the legal system of continental Europe from third-century Rome to the present. It gave continuity to the common law from the time of Coke to the present, if not, indeed, from the Middle Ages. It makes English and American and Canadian and Australian lawyers conscious of living under one system, despite diversities in social, political, economic, and geographical conditions, and despite growing diversities in the legal precepts with which each is familiar. As compared with legal precepts, this is a universal element. It is his possession of this technique that makes it possible for the lawyer to effect results with what otherwise would be a bewildering mass of legal precepts. It is his ignorance of this technique, and his lack of appreciation of its rôle as an element in law, that, as a rule, makes the work of the lay law reformer so futile in action. But our theory of law ignores this element and it is not unnatural that its proper and inevitable operations are branded by the layman as judicial usurpation or as technical quibbles of the lawyer.

Third and no less important as an element of law is a body of received ideals of the legal and social order—a body of traditional ideals as to the end of law and of what legal precepts and legal institutions should be in view thereof. This is the element we have in mind when we speak of law as universal and rooted in the eternal verities. The philosophical jurist has this element in mind; and so he too tells us that law cannot be made, it can only be found. With his eye exclusively on this element, he thinks of legislation not as creative, but as a mere formulating process. The reality of law, as he sees it, is in this ideal element. Legislator and jurist and judge can do no more than give definite formulation to details drawn from this ideal picture of the whole. But this view of the third element as the whole is quite as mistaken as the analytical dogma that takes the first element for the whole or the historical theory that makes the second element the whole. To understand law, to

administer justice according to law, above all to make law, we must understand and take account of all three.

Legal precepts, the first element, are relatively transient. When I looked recently at the note books which I kept as a student at law school thirty-six years ago, this was brought home most forcibly. Then, imputed negligence was still full of life. Then, courts were still trying to put the law as to negligence into chapter and verse of detailed rule as to what was and what was not negligence *per se*. Then, it could be said with dogmatic assurance that, save for a few aberrant jurisdictions, the motive with which one exercised his *jus abutendi* was quite irrelevant. Then, the arbitrary doctrine of mutuality of remedy flourished in equity. Consider how recently the precepts and doctrines of the law of public utilities have superseded a pedantic law of bailments. Consider that as late as 1870 eminent lawyers were not sure that there was a law of torts. Consider how new is the "right of privacy." Consider what the advent of motor vehicles has been doing to the precepts of our law of agency. Then go back to the reports of 1825 and see what a century has done to the details of the old law of property, the details of the old common-law practice, and the statutes of the beginning of our polity, which are the staple of the decisions of that time. Then compare the legislation of England whereby the realty of a deceased passes to the executor with that of Oklahoma, whereby the personalty passes to the heir, and remember that each jurisdiction claims with good reason to live under the common law. The details of legal precepts, when looked at in the light of such phenomena, seem to be the least part of the law. No matter whether we frame them abstractly and universally or, on the other hand, adapt them minutely to the requirements of time and place, we must expect them to be shaped by the traditional technique to the requirements of the received ideals; and at best their life will be relatively short.

Lawyers rely upon the first element, legal precepts, to insure the stability of the legal order. Rigid precepts precisely defined, stiff procedural requirements, and formal legal transactions, are the means by which, in the past, we have sought to exclude the personal element in the administration of jus-

tice and so to maintain the security of acquisitions and security of transactions which are at the bottom of the economic structure. But the stability attained solely through rigid legal precepts is illusory. Interpretation, application, analogical extension and restriction, and all the other devices by which the traditional technique shapes them to the received ideals for the purposes of concrete cases, can leave the form of words unchanged while working profound changes in their operation and effect. The real guaranty of stability is not in the precept element but in the traditional technique. It is to be found in professional habits of mind, that lead courts to decide cases on the basis of known materials with a known technique, and thus put ascertainable limits to the process of molding precepts to the requirements of ideals. But it is just because this element is par excellence the conservative element in the law that we cannot ignore it in the legal science of a period of growth such as that upon which we are now entering. Not the least of the questions which American jurists must begin to study is the adaptability and adaptation of this technique to the administrative justice demanded by the urban industrial society of to-day.

Received ideals are both a stabilizing element and an element of growth. In the maturity of our law in the nineteenth century the ideal of a body of logically interdependent legal precepts deducible from a small body of universal legal principles, discoverable through comparative analysis of the common law and the modern Roman law, was a force for organizing and systematizing the legal material which had sprung up in the preceding era of growth. In the formative period of American law, from the Revolution to the Civil War, the ideal of a body of precepts applicable to the social, political, economic, and geographical conditions of the new world, and the ideal of free political institutions or a free government and of legal institutions and precepts adapted thereto, gave direction to the reception of English law as the common law of America and enabled us to make out of the materials of English feudal land law and English procedure a body of legal materials by which justice could be administered in a wholly different society and under wholly different conditions. In the seventeenth and

eighteenth centuries the idea of a body of legal precepts coincident with the precepts of morals, and binding because of their intrinsic moral force and their appeal to the individual conscience, was a liberalizing agency of the first magnitude and made it possible for the medieval English law to become the basis of a law of the world. This third element of law changes slowly. That it does change is seen readily when we compare the received ideals of the age of Coke, when lawyers still thought in terms of the relationally organized society of the Middle Ages, with the received ideals of yesterday, influenced profoundly by the classical economics, by the political ideas of the French Revolution, and by the identification of the immemorial common-law rights of Englishmen, as declared by Coke and Blackstone, with the natural rights of man. The controlling part which these received ideals play in judicial decision is made manifest, to give but one example, in every case in which courts are called on to apply to social legislation the constitutional guaranty of due process of law. That some change may be taking place is at least suggested by the common phenomenon of five-to-four decisions in such cases in the Supreme Court of the United States.

Because this element is potentially an element of growth, it may easily be a factor in impairing stability, as it obviously was in the stage of infusion of morals into the law in the rise of the court of chancery in England. A feeling that a moral principle, simply as such and for that reason, is a legal rule, while a powerful instrument of liberalization and of growth, may also operate powerfully to unsettle the administration of justice. Hence philosophy of law, which subjects this element in law to critical scrutiny, seeks to give it definiteness of outline, and makes jurists, judges, and practitioners conscious of what they are doing when they resort to it, has always flourished in eras of legal growth. It cannot be insisted upon too strongly that philosophical jurisprudence, so far from unsettling the administration of justice, as things are to-day, must be our chief reliance for removing a profoundly unsettling factor, or, at least, for minimizing its effects. The unconscious operation of the personal, naïve, uncritical, social, political, and ethical philosophy of the individual judge has become a conspicuous

feature of the administration of justice. In rural, agricultural America of the last century this philosophy was in substance the same for judges and lawyers throughout the land. Occasionally, political ideals of states' rights operated south of Mason and Dixon's Line, and certain ideals of an industrial society began to appear in New England and in Pennsylvania. To-day, conflict between the ideals of a rural, pioneer, agricultural society, which prevailed when our law was formative, and the ideals of an urban industrial society, may be seen beneath the surface in every volume of the reports. No amount of legislation, no amount of rigid legal precepts, will meet this situation. We must recognize that we have to do with an element in law that is of no less importance than legal precepts, and that demands scientific study no less than they.

Lawyers must learn what we have had to learn in every other practical field of human endeavor, namely, that pure science has the highest practical importance. Pure physics and pure mathematics in engineering, pure chemistry in technical manufacture, pure biology in medicine, pure botany in agriculture and horticulture, pure economics in business administration, and pure psychology in more than one of these, have demonstrated again and again that what seem at first to be purely scientific investigations devoid of all practical import, may yield practical results of the highest consequence. Nothing seems more empty than the discussions as to the nature of law which were the staple of analytical jurisprudence in the last generation. Yet I venture to think that a sound scientific theory of the nature of law, and consequent appreciation of the several elements that make up a body of law, will achieve for our constitutional law what can never be achieved by crude schemes for recall of judges, or recall of judicial decisions, or requirements of specified majorities of the tribunal, or any other device whereby questions of constitutionality are differentiated from everyday questions as to the law applicable to the case in hand. Nothing seems more academic than the attempt to construct a comparative anatomy of the law of Cloudcuckootown on the basis of analysis of English law and the modern Roman law, which has gone by the name of analytical jurisprudence. Yet its influence can be traced, through our text-books, both

as an influence for good and as one for ill, in the attempt to force our common-law materials into supposed universal categories drawn from the Roman law, which went on through the greater part of the last century. Even the metaphysical jurisprudence that prevailed on the Continent in the nineteenth century, at which Anglo-American jurists gibed, if they deigned to notice it at all, may be shown to have had important practical effects on the administration of justice in the United States, through influence on the historical school, and thus upon English and American law books upon which courts and lawyers have relied.

If the abstract legal science of yesterday could do these things for the stable law of the last century, how much more may we expect the functional legal science of to-day to do great things for the growing law of the urban industrial society of the present. Note the problems of American law as they confront every thinking lawyer, and the relation to each of them of a legal science which asks what the law seeks to do and how far it succeeds; which asks as to each precept and each doctrine and each institution what its part is or may be in attaining the end of law and how far it plays that part well or ill; which asks as to each precept and doctrine and conception how far we achieve justice by means thereof and how far we may use it more effectively; which tries all materials and all methods by the test of the results to which they lead in the endeavor to make social engineering through the legal order as perfect as may be in the time and place.

First among the problems of the day, by general consent, is the administration of criminal justice. To make the substantive criminal law, criminal procedure, organization of the prosecuting machinery, organization and administrative methods of the tribunals, and organization and administration of penal treatment, all of them fashioned for rural America one hundred years ago, effective for their purpose in urban industrial America, is a huge task. Just now everyone, unless it be the lawyer, has an infallible remedy. The enduring remedy must come through lawyers and will be one that lawyers must administer. The layman can but treat the symptoms. The things that operate behind the symptoms are too deep seated for

him. But the lawyer can do little until long continued, thorough, scientific research has given an assured basis on which to work.

Next only to criminal law is the problem of legislation. It is easy to decry legislative law making. It is easy to declaim against the "rain of law." But legislative law making is obviously the type of law making of the maturity of law. If we are inclined to scoff at it, we must remember that legislation solved the problem of workmen's compensation, when judicial empiricism failed, and that the exigencies of modern business preclude waiting for a slow process of judicial exclusion and inclusion to work out legal conceptions for many a settled practice of manufacturing and marketing. Just as the high powered motor vehicles of to-day require us to mark out the middle of the road upon the pavement and to mark out zones of safety and street crossings and turns, so the high pressure operations of modern business require lines to be laid out and limits to be defined and permissible courses of conduct to be indicated in advance by legislation rather than after the event by judicial determination of controversies. Legislation is something we must have; and yet admittedly it is most unsatisfactory in practice. How to make it take account of the legal background on which the courts will project it when they come to apply it, how to insure that all the interests involved have been, as it were, inventoried and valued and delimited so as to secure the most that may be with the least friction and the least waste, is a problem of social engineering calling for as great an equipment of pure science and as much creative resource as any problem of electrical or mechanical engineering that has been solved in whole or in part through the research carried on in our highly endowed laboratories.

Hardly less important is the problem of enforcing legal precepts. This problem has become acute in the United States because of recent legislation that tries our enforcing machinery at every point. But it antedates that legislation and is a serious one wherever a complex social and economic order requires legal precepts beyond those simple rules and standards, sufficient for the rural agricultural society of the past, the propriety whereof was apparent to every thinking man. The legal

science of the past knew of no such problem. To the analytical jurist the whole matter was one of executive efficiency. To the lawyer, it was enough that a precept had obtained the guinea stamp of establishment by the sovereign. The lawyer had nothing to do with enforcement. That was for the executive. If the executive did not make the precept effective in action, why then the executive was at fault. To the historical jurist the whole matter was one of whether the precept did or did not correctly express human experience. If it was a mere formulation of what had been discovered by experience, enforcement would take care of itself. It would be rooted in habits and customs of mankind and would be secure on that basis. If not, it was a futile attempt to do what could not be done and all attempt at enforcement would in the end prove vain. To the philosophical jurist, the whole matter was one of the intrinsic justice of the precept—of its appeal to the conscience of the individual citizen. If as an abstract proposition it was inherently just, its appeal to the reason and conscience of the individual would secure obedience from all but an almost negligible minority who persisted in going counter to their consciences and might have to be coerced. If not, the attempt to enforce an unjust rule contrary to the conscience of the individual citizen ought to fail and we need not feel badly if it did fail.

Such simple theories of enforcement fall to the ground under the conditions of the urban society of to-day. We learn quickly that efficient or inefficient executives alike encounter certain obstacles that seem beyond the reach of efficiency. We soon find that in such matters as traffic regulation, the general security requires us to make habits instead of waiting for them to develop by experience at the cost of life and limb. We come to see that the exigencies of the general security and of the individual life require us to prescribe many things the reasons whereof are not upon the surface and the justice whereof, clear as it may be to the expert, will not appear at once to every reasonable and conscientious citizen. Hence we have to deal with the subject of enforcement in new ways. We have to study the limits of effective legal action. We have to determine what we may expect to do through law and what we must leave

to other agencies of social control. We have to examine our armory of legal weapons, appraise the value of each for the tasks of to-day, and ask what new ones may be devised and what we may expect reasonably to accomplish by them when devised. Here, too, is an unexplored domain for the legal science of to-morrow.

Another problem of prime importance is preventive justice. Civil-law countries have gone much further than common-law countries in this matter, and England has gone somewhat further than we have. In too many American jurisdictions the only way to find out what a contract means is to break it. The appointed way to determine whether another has an easement over your land is to assault him when he tries to exercise it. The appointed way of learning whether a penal statute is or is not the law of the land is to break it and run the risk of going to jail if it turns out to be constitutional. In all our jurisdictions, we try a generation after the event the testamentary capacity and free action of a long-lived testator who steadfastly adhered to the dispositions of his will as first made. For the conduct of business and the conduct of enterprises we have come to rely upon administrative boards and commissions, which have been set up on every hand to guide us at the crisis of action, much as the traffic officer at the street corner tells us when to cross the street and when to stand patiently and watch the procession of motor vehicles roll by. For criminal law, juvenile courts have made a notable beginning. Yet it is not too much to say that preventive justice is another unexplored domain in which the legal investigator of the future may hit upon epoch making discoveries.

Still another field for research is judicial organization and administration. For we may not flatter ourselves that the standard American adaptations of the English judicial organization and administration of the eighteenth century is something that will stand fast forever. It was an ingenious adaptation to the society of the time. It is already an anachronism in the huge urban community of to-day.

Finally, there is the problem of individualizing the application of justice in that part of its administration in which it has from the nature of things to deal with unique situations. There

is nothing unique about a given promissory note or a given estate in land or a given conveyance. Promissory notes may be printed in blank and it remains only to fill in dates, amount and signature. Conveyances may be made upon blanks in the same way. But there is no such thing as a blank automobile accident or a blank railway accident or a blank outline of unfair conduct of a fiduciary, or a blank outline of reasonable conduct of a public utility. In the past we have tried at one time to deal with all cases after the manner of promissory notes or conveyances of estates, and at another, by way of reaction, to treat all cases as if they were cases of human conduct. It is not the least problem of modern law to find out how to apportion the field between rule and standard, between logic and discretion, between treatment of cases in gross and individualized treatment of unique cases or unique elements in cases, so as most completely to achieve the ends of the legal order.

Such are some of the major tasks that confront the American lawyer to-day. If they had to be performed by the courts unaided or by the practicing lawyers unaided, I might despair of any enduring results in such time as it is reasonable for us to call upon the laity to wait. It might be a lesser evil to turn things over to the business man and the worker for an off-hand application thereto of their common sense. The dockets of courts are too heavy, the view of these problems which any court may get is too fragmentary and its experience is too specialized or too local to make it possible for courts to do for this time the sort of thing they did so well in the formative era of our legal institutions. Likewise, the work of the practitioner of to-day is too specialized, and he is too much engrossed with the management of enterprises and the practical guidance of business to be in a position to contribute more than an occasional ingenious detail to the solution of these problems. Nor do I hope for much, as things are, from the suggestion of a ministry of justice. We are not likely to set up a ministry so free from political pressure, so competently manned, so animated by pure zeal for the advancement of justice, and so filled with scientific spirit, as to compel the confidence of legislatures and people and insure that its recommendations be worthy of adoption. Even less may we rely upon occasional legislative commissions

or upon the intermittent and hurried labors of judiciary committees.

Our best reliance, as I venture to think, must be upon our national law schools. In these institutions we may find the permanence of tenure, the conditions of work—continuity, opportunity of dealing with problems as a whole, possibility of surveying a wide field, extending beyond the limitations of jurisdictions and localities and parties—the independence of politics, and the guaranties of training, ability, and scientific attitude, which are essential to effective research and which will command public confidence. Were legal research in such institutions endowed as is every other form of research in American universities, were it possible for legal scholars to take time from teaching to devote themselves to the furtherance of justice according to law by conducting the investigations upon which effective reform must proceed, we may be confident that the results would be no less far reaching and no less salutary than those which have flowed so abundantly from the lavish endowment of medical research. What research has done for the prevention and cure of disease, what it has done for engineering, and the technical arts, and agriculture, and business administration, it may yet do for the law. In no way may the lawyer be so sure of achieving his task of making straight the paths of American justice, as by doing his part to assure to our law schools the means of carrying on the scientific investigations on which the law reforms of the future must go forward.

●

# JOSEPH T. ROBINSON

## A STRANGE REVERSAL OF PRINCIPLES

Senator Joseph Taylor Robinson of Arkansas, leader of the Democratic majority in the Senate 1933-1937, and minority leader from 1923 to 1933, broadcast a reply to the speech made by Alfred E. Smith at the American Liberty League dinner. Joseph T. Robinson was born in Lonoke, Arkansas, on August 26, 1872. He was graduated from the University of Arkansas, studied law at the University of Virginia, and was admitted to the bar in 1895. He was a Member of Congress continuously from 1903 to 1913. In January of the latter year he resigned to become Governor of Arkansas, an office which he resigned only two months later because of election to the United States Senate, of which he has been a member ever since. As Democratic floor leader since 1923, he had taken a very important part in the councils of the party. He presided over the Democratic presidential convention of 1928, was nominated as the candidate for Vice President, running for the office on the same ticket as Alfred E. Smith, whose speech against the New Deal he answers in this address, was a most important leader of his party. He died in 1937. The speech is included by permission.

LADIES AND GENTLEMEN OF THE RADIO AUDIENCE:—I shall take for my text tonight Genesis, the Twenty-seventh Chapter, Verse 22: "The voice is Jacob's voice but the hands are the hands of Esau."

Alfred E. Smith sought the Presidency in 1928, when a man who raised his voice on behalf of the great causes of social justice and democratic principles was regarded by the stock-ticker patriots with smug toleration or as a potential enemy of his country.

Governor Smith in 1928 waged a clean and honorable campaign in behalf of common men and women, but he was swept down to defeat by greed and privilege hiding behind a murky and malodorous smoke screen. Greed supplied the thirty pieces of silver and passion brought about the base betrayal of fundamental American principles.

Now we are on the threshold of another national campaign with the same two armies facing each other along the battle line. The preliminary skirmishing is under way, and what is our amazement to find Governor Smith enthroned in the camp of the enemy, warring like one of the Janizaries of old against his own people and against the men and women with whom he fought shoulder to shoulder in the past.

### THE "HAPPY WARRIOR" IN STRANGE COMPANY

A few nights ago there was held in the city of Washington a banquet by the miscalled "American Liberty League," and the main attraction on that occasion was none other than our old friend, the "Happy Warrior," who won his spurs battling for the rights of the plain people.

Let me read to you a description of that occasion from a Washington newspaper:

"Jammed elbow to elbow, tailcoat to tailcoat, fluttery bouffant dress to sleek black velvet dress, the tables set so closely together that the ushers in the Confederate gray mess coats and black pants scarcely could wiggle between the anti-New Dealers, Democrats and Republicans alike gathered to hear the magic, rasping voice of Alfred E. Smith belabor the present administration."

Another writer in the same paper described it as a "billion dollar" audience that glanced up with eyes of worship and love at the new champion who had come amongst them. It was the swellest party ever given by the du Ponts.

Yes, Governor Smith not only has changed sides in the great battle but his whole outlook seems to have undergone a transformation. He has forgotten apparently the issues upon which he ran for the Presidency. The brown derby has been discarded for the high hat; he has turned away from the East Side with those little shops and fish markets, and now his gaze rests fondly upon the gilded towers and palaces of Park Avenue.

In the old days, Governor Smith was one of the most constructive and penetrating critics in American public life.

But now what a change! His hour-long harangue before

the miscalled Liberty League was barren and sterile, without a single constructive suggestion for meeting the great social and economic problems confronting this government. He laid down a six-point program in which he proposed somewhat childishly that the Democrats should forget about the election, resurrect the platform of 1932, cease compromising with fundamental principles, discontinue efforts to change the fundamental principles of government, remember oaths of office and regard the Constitution as a Bible.

Not a specific proposal in the whole batch. Just a rehash of confusing and meaningless generalities.

Why, the "Happy Warrior" even went further than that. He boldly asserted that our great offensive to overcome the depression and adjust the nation's economic life had accomplished nothing and brought us nowhere. Is that a serious declaration or does it come under the heading of oratorical license?

I challenge the accuracy of that assertion. Why, a table recently compiled shows that in the three years of the New Deal as compared to the last three years of the Old Deal unemployment has declined 30 per cent, cotton, wheat and corn have increased 100 per cent or more in value, industrial production has gone up 51 per cent, listed stocks have increased 134 per cent in value and listed bonds 22 per cent.

The progress of our recovery is apparent to every man who looks about him, and the story of its onward rush fairly leaps at you every day from the pages of the daily press. Bear in mind that when the Roosevelt administration came into power, hungry and abandoned men in the cities were searching the garbage pails for waste scraps and the American farmers were halting court foreclosures by physical force, which borders little short of revolution. And Governor Smith says there has been no progress!

President Roosevelt had not been in the White House twenty-four hours before bankers and other big business men now grouped in the Liberty League appealed to him to "do something," to "do anything," to relieve the paralysis of business and to save them.

The President and the Congress responded to their appeals,

saved the banks, and in saving them also saved the insurance companies; saved the railroads, the farms and the homes. No sooner had these suppliants been made secure than they began to complain of the very processes by which their fortunes had been preserved against bankruptcy.

They did not, when they needed help, brand government aid to private enterprises as socialistic or communistic; nor did they complain of the government's engaging in what is normally private enterprise. Now, being secure, they regard it as violative of sound principle to accord the same assistance to others which they themselves have enjoyed.

So much for what the Roosevelt administration has accomplished. Now let's look at Mr. Smith's other criticism of the present Democratic administration. You recall that before the Liberty Leaguers he started to read the Democratic platform of 1932, but for some strange reason he never finished it. I wonder why. Was there something further along, condemning stock market manipulations, that he didn't like to read before his wealthy friends?

In any event, he charged that the New Deal was fostering and promoting class hatred; second, that it enacted an unconstitutional NRA; third, that public money was being wasted; fourth, that Congress had abdicated its powers to the Executive; and fifth, in a flag-waving, soul-stirring crescendo he charged the New Deal with trying to undermine the Constitution and Supreme Court while it fastened a socialistic and communistic dictatorship upon this country.

Let's look at the record. Why, Governor Smith, from your own words, with your own matchless talent for illuminating the dark places of public discussion, I shall prove that you have advocated and championed every basic principle that has been written into law by the Roosevelt administration.

In his speech on Saturday night Mr. Smith made the ugly charge that the New Deal is fomenting class hatred. Let me read you what he said when he was addressing the Alumni Association of Harvard University on June 22, 1933:

"I remember when we first spoke about the Workmen's Compensation Act the Court of Appeals of our own State set aside the first enactment as being contrary to the Constitution.

I remember when we enacted the Child Welfare Act it was referred to as paternalism and as socialism.

"Our whole democracy at that time seemed to be devoted to the part that constitutional law was intended only for the protection of property and of money and the human element did not seem to enter into it.

"The same has to do with the factory code; the same has to do with the provision for modern, up-to-date housing for our small-income group; the same has to do with the development of State-owned water power and the ownership by the State of the power at the site. Twenty years ago those were regarded as socialistic. I was referred to many times by my political opponents as a Socialist. But, in the light of our present-day legislation, Mr. President, I claim I am one of the ultra-conservatives.

"We have nothing to fear in this country from a dictatorship. There can be nothing of that kind in this country. It cannot live here. We are not organized to carry it on. We have no desire for it. Great as may be the grant of temporary power in an emergency that Congress may by Congressional enactment put into the hands of a President the thing we have to fear in this country, to my way of thinking, is the influence of the organized minorities, because somehow or other the great majority does not seem to organize."

Yes, those were Mr. Smith's own words. Somehow I think there must be two Al Smiths. One is the happy, carefree fellow behind whom we marched and shouted in 1928, proud of his principles and eager to place him in the White House. Now we have this other Al Smith, this grim-visaged fellow in the high hat and tails, who warns us that we are going straight to Moscow.

If I recall correctly, he came before the Senate Finance Committee in 1933 and urged us to recognize Soviet Russia and give it a five year moratorium on debt payments.

Throughout his 1928 campaign Governor Smith hammered at the power trust, denounced greed and special privilege, and faithfully promised the people that if he were elected he would establish a new order of things and bring about what he called a "more equal distribution of prosperity."

Now he talks about stirring up class hatred, but what he said then sounded a great deal more like "share the wealth" than it does like the comparatively mild statements of President Roosevelt.

#### NEW AND OLD VIEWS ON FARM RELIEF

I pass on to his next accusation. He charged the New Deal with fostering an unconstitutional farm-relief program. He forgets that in 1928 he advocated the principles of the McNary-Haugen bill, which in many respects was far more drastic in its use than the AAA ever was. That's just a case of second guessing. Let me quote you from his Jefferson Day speech on April 13, 1932. He said:

"It is a perfectly easy thing to say we must restore the purchasing power of the farmer. Fine! Of course we must. But how are we going to do it? I would sooner have a short shake hands with the fellow that knows how to do it than listen for a week to the fellow who knows how to tell you what the trouble is."

Well, Governor Smith, you should have stepped out of that Belshazzar feast and taken a walk to the White House to shake the hand of the man who raised the purchasing price of the farmers more than \$2,000,000,000 in one year.

In his speech on Saturday night Mr. Smith denounced the NRA as a giant octopus that entangled itself around all business, big and small, and tried to smother it to death. Another second guess. He made a radio speech on August 22, 1933, in which he called attention to the fact that NRA was largely voluntary and he added:

"The slightest reflection on these facts should dispose of the claim, from whatever source it came, that the National Industrial Recovery Act shakes the firm foundations of our Constitution, or marks revolution in our government and in the conduct of our everyday life.

"Let us see whether, by shorter hours, higher wages and increased employment we can avoid the dole, called home relief, and the disguised dole popularly known as relief work, the evil consequences of which we all know. It is infinitely better

to pay the bill by the methods proposed in the National Industrial Recovery Act than to pay it in the form of public or private charitable relief."

These words from Governor Smith constitute an endorsement of the act which he so bitterly condemned last Saturday night.

The next charge was that public money was being wasted and that the party had failed to fulfill its pledge of a 25 per cent reduction in government expenditures. He neglected entirely to state that no President ever could have refused the call of suffering humanity that existed during the crisis of 1933. He knows very well that any Chief Executive too cowardly to use the national credit to save human life would have been consumed in the burning hatred of his own people.

#### PUBLIC RELIEF APPROPRIATIONS FORMERLY APPROVED

I'll go further than that. Governor Smith himself was urging appropriations for public relief at the very time that platform plank about which he boasts so loudly was being drafted. He made speech after speech urging a public bond issue to provide employment. He appeared before a committee of Congress for that purpose. Here is what he said at the Jackson Day dinner in Washington on January 8, 1932:

"Now, if it is all right to put the credit of the government behind business, let the credit of the government be used to keep the wolf of hunger away from the doormat of millions of people."

In that same speech Mr. Smith declared that the conduct of the Hoover administration was "indefensible because States, cities and private charities were out of funds and unable to cope with the relief situation. He forgot to mention that speech to his Liberty League friends at the Belshazzar feast last Saturday night. Once again he was second-guessing.

Let's pass on to his fourth charge that Congress has abdicated its legislative powers and, as he said, the country is now run by bureaucrats. Why, what Congress did is the very thing he advocated. In that Jackson Day speech from which I just quoted Smith said:

"I would therefore suggest that Congress empower the President of the United States to appoint a Federal Administrator of Public Works and put the President in such a position as he can clothe him with plenary power to cut, slash, dig into and run through all the red tape and through all the statutory restrictions that are placed upon the government in the progress of public works.

"In other words, invoke the tactics of war, instead of dotting all the i's and the t's and going through all the cumbersome labor of the peacetime performance when it comes to public works construction."

Oh my dear Governor Smith, what a short memory you have! Your charge that the Roosevelt administration is fostering socialism and communism is so ridiculous it's actually funny. Honestly, Governor, I think you've been seeing things under the bed, you know, those Communist spies that our good friend Ham Fish is always talking about. Where have I heard that charge of socialism and communism before? Oh, now I recall, that's the identical charge that Herbert Hoover made against you in 1928.

Remember, Governor, after you fearlessly advocated the public ownership, public control and public development of water-power sites, poor old Herbert whimpered that it was State Socialism because he lacked any adequate or statesman-like reply to the position you took.

And how you nailed poor Herbert on that one. You reminded him that the same old cry had been raised against Theodore Roosevelt, Charles Evans Hughes, Woodrow Wilson and every other public servant who ever attempted to perform a public duty on behalf of the whole people. Very properly you said that silly charges of that kind did more to promote socialism in this country than any other cause. Let me quote just two short paragraphs from the Boston speech of yours on October 24, 1928. You said:

"The cry of socialism has been patented by the powerful interests that desire to put a damper on progressive legislation.

"Failing to meet the arguments fairly and squarely, special interest falls back on the old stock argument of socialism. The

people of New York State are tired of the stock argument, have discovered that it means nothing, that it is simply subterfuge and camouflage, and I am satisfied that the people of the nation in their wisdom will so appraise it."

Yes, Governor Smith, you very properly reminded Mr. Hoover that under his definition even Charles Evans Hughes, the present Chief Justice of the United States, was a Socialist.

Now, then, Governor Smith, I wish to comment on one more portion of your speech. You quoted from President Roosevelt's message to Congress and then by straining and distorting his meaning you charged the President with saying: "If you are going to have an autocrat, take me; be very careful about the other fellow."

Now the Chief Executive never said that and he never hinted at any such things. That looks just a little bit like a blow below the belt. Now suppose I read the record on you, not what some one else said, but what you yourself said. I am now going to read you verbatim a news dispatch which appeared in the usually reliable "New York Times," in the issue of February 8, 1933, just before Mr. Roosevelt entered the White House. I quote:

"Former Governor Alfred E. Smith told 400 guests at a dinner of the Catholic Conference on Industrial Problems at the Hotel Astor last night that the nation needs a director of public works with power to cut through red tape if appropriations of public funds are to count in the war against the depression.

"The former Governor asserted that the economic crisis had caused more domestic damage than participation by the United States in the World War, and he declared it must be fought as a democracy traditionally fights, by arrogating to itself the powers of 'a tyrant, a despot or a monarch.'

"'Let us look back a few years to 1917 and 1918,' Mr. Smith proposed. 'What did we do then? Why, we took the Constitution, wrapped it up and put it on the shelf and forgot it until it was over.'"

Just think of that! Alfred E. Smith proposed in 1933 that we wrap up the Constitution and put it on the shelf until the

depression was defeated, and then comes down here in 1936 to lecture Democratic leaders on constitutional government!

#### LIBERTIES NOT CURTAILED BY THE PRESIDENT

Now let me say something about the Constitution. In the whole United States there is not a single individual who can honestly and truthfully charge Franklin D. Roosevelt with advocating the suppression of freedom of speech, freedom of the press, freedom of assemblage, freedom of worship, or any of those other basic rights guaranteed us in the immortal Bill of Rights.

The idea that Governor Smith wished to convey in 1933 is the idea we all had—namely, that in a time of stress and torment, when every moment demanded action to preserve human life and prevent human suffering, it was imperative to cease wasteful quibbling. He meant the time had passed for legal hair-splitting and pompous phraseology.

Governor Smith meant he was tired of boresome, self-styled constitutional authorities like James M. Beck, the chief justice of the "Liberty League," who has appeared ten times before the Supreme Court on constitutional questions and been turned down eight times.

History will show, and the record now will show, that President Roosevelt has never advocated the adoption of a single measure designed to curb in any way the just liberties of any man.

Of course President Roosevelt was unable to say definitely and finally in the great emergency of 1933 just where State power ended and Federal power began. Of course Congress was unable to say flatly and finally that the measures adopted would come within the framework of the Constitution as interpreted by the Supreme Court. Who could say conclusively the AAA was constitutional or unconstitutional? Why, even the court itself differed on that issue and three of its keenest members gave their unqualified opinion that it was constitutional.

We anticipate unprincipled men, engaged only in promoting their own interests, to join the hypocritical and pharisaical

chorus, to join the hue and cry of those who falsely accuse the President of the United States of trying to undermine the organic law of this country. But we don't expect it from high-minded individuals who know better, from men who themselves have advocated far more drastic policies and programs than Mr. Roosevelt has pursued. If you condemn the President, Governor Smith, you condemn yourself one hundredfold.

The list of directors and officers of the American Liberty League reads like a roll-call of the men who have despoiled the oil, coal and water-power resources of this country. With notable exceptions they were lined up against you in 1928, supplying the money with which Herbert Hoover went about the country denouncing you as a Communist and a Socialist.

It was strange to see you in such company, Governor Smith. Over here marches the same army with whom you fought for social justice for a quarter of a century—Senator Wagner, Franklin Roosevelt, Miss Perkins, Senator Norris and those other comrades of your earlier and better days.

The glamour of your presence and the brilliance of your personality so completely dominated that gathering on last Saturday night that in the half-shadows were concealed the lurking figures of men who fought for twenty-five years against the principles of government you formerly advocated. Within a few feet of the table at which you sat were members of the power trust, some of whom you denounced by name in 1928.

I'm sure Mr. Hoover was with you in spirit, his cherubic face agleam and his chubby hands applauding ecstatically as you repeated against Mr. Roosevelt the very speech which he himself delivered against you in 1928.

Yes, Governor Smith, it was as difficult to conceive you at that Liberty League banquet as it would be to imagine George Washington waving a cheery good-by to the ragged and bleeding band at Valley Forge while he rode forth to dine in sumptuous luxury with smug and sanctimonious Tories in near-by Philadelphia.

Perhaps in the heat of battle sometimes our commanding officer, President Roosevelt, has employed the wrong tactics. Perhaps there has been confusion and loss of energy. Those things always happen when human beings attempt mass opera-

tions in hurried formation under the pressure of adverse fate. But those things never yet have justified a change of allegiance in the face of the enemy.

It rests with no soldier who approaches the battlefield under the flag of his leader to retire while the war continues. Above all things, he must never go over to the enemy.

Yes, I agree with you, Governor Smith, that the Democratic party belongs to no individual and no group. It cannot be purchased by the American Liberty League. The financial angels of the league will discover they cannot buy a monopoly over the name of freedom in the same way they have purchased monopolies over oil, coal and water-power.

Governor Smith, I've read you the record. You approved NRA, you approved farm relief, you urged Federal spending and public works, you urged Congress to cut red tape and confer power on the Executive, you urged autocratic power for the President and you exposed with merciless logic the false cry of communism and socialism. The New Deal was the platform of the "Happy Warrior."

The policies of the Liberty League have become the platform of the unhappy warrior.

# ALFRED E. SMITH

## THE FACTS IN THE CASE

Alfred Emanuel Smith, active in the political affairs of New York State since 1903, candidate for the presidential nomination in the Democratic convention of 1924, and named as Democratic candidate in 1928, came out as a bitter opponent of Roosevelt and the New Deal in a speech at the American Liberty League banquet at the Mayflower Hotel, Washington, D. C., on January 25, 1936. During the years that he was Governor of New York and later when he was seeking to be President, he had the vigorous support of Franklin D. Roosevelt. In 1928, his running mate on the Democratic ticket was Joseph T. Robinson, whose speech in reply to Smith is also included here. Always a Democratic in politics, Ex-Governor Smith's determination to oppose the Roosevelt leadership aroused much speculation as to the outcome. The Liberty League address follows. Included by permission.

MR. CHAIRMAN, MEMBERS AND GUESTS OF THE AMERICAN LIBERTY LEAGUE AND MY FRIENDS LISTENING IN, AS I HAVE BEEN TOLD BY THE NEWSPAPERS, FROM ALL PARTS OF THE UNITED STATES:

At the outset of my remarks let me make one thing perfectly clear. I am not a candidate for any nomination by any party at any time, and what is more, I do not intend to even lift my right hand to secure any nomination from any party at any time.

Further than that, I have no axe to grind. There is nothing personal in this whole performance in so far as I am concerned. I have no feeling against any man, woman or child in the United States.

I am in possession of supreme happiness and comfort. I represent no group, no man, and I speak for no man or no group, but I do speak for what I believe to be the best interests of the great rank and file of the American people in which class I belong.

Now, I am here tonight, also, because I have a great love for the United States of America. I love it for what I know it has meant to mankind since the day of its institution. I love it because I feel it has grown to be the great stabilizing force in world civilization. I love it above everything else for the opportunity that it offers to every man and every woman that desires to take advantage of it. No man that I know of or that I probably ever read of has any more reason to love it than I have.

#### KEEPING THE GATEWAY OPEN

It kept the gateway open for me. It is a matter of common knowledge throughout the country, and I do not state it boastfully, because it is well known, that, deprived by poverty in my early years of an education, that gateway showed me how it was possible to go from a newsboy on the sidewalks of New York to the Governorship of the greatest state in the Union.

Now listen: I have five children and I have ten grandchildren, and you take it from me, I want that gate left open not alone for mine—I am not selfish about it—not for mine, but for every boy and girl in the country, and in that respect I am no different from every father and mother in the United States.

Think it over for a minute. Figure it out for yourself. It is possible for your children's success to be your success.

I remember distinctly my first inauguration as Governor of New York. I am not sure that the young folks understood it thoroughly, but there were three people at that inauguration that did understand it, and one was my mother, the other was my sister, and the third was my wife. They understood. They were with me in all of the early struggles.

Now, I am here for another reason. I am here because I am a Democrat. I was born in the Democratic party and I expect to die in it. I was attracted to it in my youth because I was led to believe that no man owned it, and furthermore that no group of men owned it, but, on the other hand, that it belonged to all the plain people of the United States.

I must make a confession. It is not easy for me to stand up here tonight and talk to the American people against the

Democratic administration. That is not easy. It hurts me. But I can call upon innumerable witnesses to testify to the fact that during my whole public life I put patriotism above partisanship. And when I see danger—I say “danger,” that is, the “Stop, look and listen” to the fundamental principles upon which this government of ours was organized—it is difficult for me to refrain from speaking up.

### DANGERS TO AMERICAN LIBERTIES

Now, what are these dangers that I see? The first is the arraignment of class against class. It has been freely predicted that if we were ever to have civil strife again in this country, it would come from the appeal to passion and prejudice that comes from the demagogue that would incite one class of our people against the other.

In my time I have met some good and bad industrialists; I have met some good and bad financiers, but I have also met some good and bad laborers. And this I know, that permanent prosperity is dependent upon both capital and labor alike.

I also know that there can be no permanent prosperity in this country until industry is able to employ labor, and there certainly can be no permanent recovery upon any governmental theory of soak the rich or soak the poor.

Even the children in our high schools—and let it be said to the glory of our educational institutions that even the children in our high schools know that you can’t soak capital without soaking labor at the same time.

The next thing that I view as being dangerous to our national well-being is government by bureaucracy instead of what we have been taught to look for, government by law.

Just let me quote something from the President’s message to Congress: “In thirty-four months we have built up new instruments of public power. In the hands of a people’s government this power is wholesome and proper. But in the hands of political puppets of an economic autocracy such power would provide shackles for the liberties of the people.”

Now, I interpret that to mean: If you are going to have an autocrat, take me, but be very careful about the other fellow.

There is a complete answer to that, and it rises in the minds of the great rank and file, and that answer is just this: We will never in this country tolerate any law that provides shackles for our people. We don't want any autocrats, either in or out of office; we wouldn't even take a good one.

The next danger that is apparent to me is the vast building up of new bureaus of government, draining the resources of our people into a common pool and redistributing them, not by any process of law, but by the whim of a bureaucratic autocracy.

#### THE DEMOCRATIC PLATFORM OF 1932

Well, now, what am I here for? I am here not to find fault. Anybody can do that. I am here to make suggestions. Now, what would I have my party do?

I would have them re-establish and re-declare the principles that they put forth in that 1932 platform. Even our Republican friends—and I know many of them, they talk to me freely, we have our little confidences among ourselves—they have all agreed that it is the most compact, the most direct, and the most intelligent political platform that was ever put forth by any political party in this country.

The Republican platform was ten times as long; it was stuffy, it was unreadable, and in many points, not understandable, and no administration in the history of the country came into power with a more simple, a more clear, or a more inescapable mandate than did the party that was inaugurated on the 4th of March in 1933.

And listen, no candidate in the history of the country ever pledged himself more unequivocally to his party platform than did the President that was inaugurated on that day.

Well, here we are. Millions and millions of Democrats just like myself, all over the country, still believe in that platform, and what we want to know is why it wasn't carried out.

And listen, there is only one man in the United States of America that can answer that question. It won't do to pass it down to an undersecretary. I won't even recognize him when I hear his name. I won't know where he came from. I will be sure that he never lived down in my district.

## A COVENANT WITH THE PEOPLE

Now, let us wander for a little while and let's take a look at that platform, and let's see what happened to it. Here is the way it started out:

"We believe that a party platform is a covenant with the people, to be faithfully kept by the party when entrusted with power, and that the people are entitled to know in plain words the terms of the contract to which they are asked to subscribe. The Democratic Party solemnly promises by appropriate action to put into effect the principles, policies and reforms herein advocated and to eradicate the political methods and practices herein condemned."

My friends, these are what we call fighting words. At the time that the platform went through the air and over the wire, the people of the United States were in the lowest possible depths of despair, and the Democratic platform looked to them like the star of hope; it looked like the rising sun in the East to the mariner on the bridge of a ship after a terrible night. But what happened to it?

First plank: "We advocate the immediate and drastic deduction of governmental expenditure by abolishing useless commissions and offices, consolidating departments and bureaus, and eliminating extravagance, to accomplish a saving of not less than twenty-five per cent in the cost of the Federal Government."

Well, now, what is the fact? No offices were consolidated, no bureaus were eliminated but on the other hand the alphabet was exhausted in the creation of new departments. And—this is sad news for the taxpayer—the cost, the ordinary cost, what we refer to as housekeeping cost, over and above all emergencies—that ordinary housekeeping cost of government is greater today than it has ever been in any time in the history of the republic.

Another plank: "We favor maintenance of the national credit by a Federal budget annually balanced on the basis of accurate Executive estimates within revenue."

How can you balance a budget if you insist upon spending more money than you take in? Even the increased revenue

won't go to balance the budget because it is "hocked" before you receive it. What is worse than that, we have borrowed, we owe something; we have borrowed so that we have reached a new high peak of Federal indebtedness for all time.

Well, that wouldn't annoy me so very much ordinarily. When I was Governor of New York they found a lot of fault with me because I borrowed a lot of money. That wouldn't worry me. If it solved our problem and we were out of trouble I would say "All right, let 'er go." But the sin of it is that we have the indebtedness and at the end of three years we are just where we started. Unemployment and the farm problem we still have with us.

Now, here is something that I want to say to the rank and file. There are three classes of people in this country; there is the poor and rich, and in between the two is what has often been referred to as the great backbone of America, that is, the plain fellow. That is the fellow that makes from one hundred dollars a month up to the man that draws down five or six thousand dollars a year. They are the great army. Forget the rich; they can't pay this debt. If you took everything they have away from them, they couldn't pay it; there ain't enough of them, and furthermore they ain't got enough.

There is no use talking about the poor; they will never pay it because they have got nothing. This debt is going to be paid by that great big middle class that we refer to as the backbone and the rank and file, and the sin of it is that they ain't going to know they are paying it. It is going to come to them in the form of indirect and hidden taxation. It will come to them in the cost of living, in the cost of clothing, in the cost of every activity that they enter into, and because it is not a direct tax, they won't think they're paying it. But, take it from me, they are going to pay it.

Another plank: "We advocate the extension of Federal credit to the states to provide unemployment relief where the diminishing resources of the states make it impossible for them to provide for their needs."

That was pretty plain. That was a recognition in the national convention of the rights of the states. But how is it interpreted?

The Federal Government took over most of the relief problems, some of them useful and most of them useless. They started out to prime the pump for industry in order to absorb the ranks of the unemployed, and at the end of three years their affirmative policy is absolutely nothing better than the negative policy of the Administration that preceded them.

"We favor unemployment and old-age insurance under state laws." Now, let me make myself perfectly clear, so that no demagogue or no crackpot in the next week or so will be able to say anything about my attitude on this kind of legislation. I am in favor of it, and I take my hat off to no man in the United States on the question of legislation beneficial to the poor, the weak, the sick or the afflicted, or men, women and children.

Because why? I started out a quarter of a century ago when I had very few followers in my state, and during that period I advocated, fought for, introduced as a legislator, and finally, as Governor for eight long years, signed more progressive legislation in the interest of men, women and children than any man in the State of New York. And the sin of this whole thing and the part of it that worries me and gives me concern is that this haphazard, hurry-up passage of legislation is never going to accomplish the purposes for which it was designed. And bear this in mind, follow the platform—"under state laws!"

Here is another one: "We promise the enactment of every constitutional measure that will aid the farmers to receive for their basic farm commodities prices in excess of cost."

Well, what is the use of talking about that? "Promise every constitutional measure!" The Supreme Court disposed of that within the last couple of weeks, and, according to the papers the other day, some brilliant individual has conceived the idea of how to get around the Constitution. We are going to have forty-eight A.A.A.'s, one for each state.

The day that the United States Supreme Court decided that case I left my office to attend a meeting of a board of trustees of a hospital downtown that I am interested in, and as I stepped into the taxicab the driver was reading the extra, "Supreme Court Declares A.A.A. Unconstitutional."

We rode along for a few minutes and we got about three

blocks from my office and we got caught in a red light and had to stand still, and the taxi driver turned around and looked at me and said, "Governor, ain't there any lawyers in Congress any more?" Just then the light changed, and I was afraid to answer him for fear I might disconcert him, but I was all ready to say, "Yes, son, but they don't function."

We have got another plank—"We advocate strengthening and impartial enforcement of the anti-trust laws."

What happened? Why, the NRA just put a gas bag on the anti-trust laws and put them fast asleep, and nobody said anything about it. I don't know whether they are good or whether they are bad, but I know they didn't work.

Another one: "We promise the removal of Government from all fields of private enterprise except where necessary to develop public works and national resources in the common interest."

NRA, a vast octopus set up by Government, that wound its arms around all the business of the country, paralyzing big business, and choked little business to death.

Did you read in the papers a short time ago where somebody said that business was going to get a breathing spell? What is the meaning of that? And where did that expression arise? I'll tell you where it comes from. It comes from the prize ring. When the aggressor is punching the head off the other fellow, he suddenly takes compassion on him and he gives him a breathing spell before he delivers the knockout wallop.

Here is another one: "We condemn the open and covert resistance of administrative officials to every effort made by Congressional committees to curtail the extravagant expenditures of governmental and improvident subsidies granted to private interests."

#### NO CURTAILMENT OF EXTRAVAGANCE

Now, just between ourselves, do you know any administrative officer that has tried to stop Congress from appropriating money? Do you think there has been any desire on the part of Congress to curtail appropriations? Why, not at all. The fact is that Congress approved them right and left—didn't even tell what they were for. And the truth further is that

every administrative officer sought to get all that he possibly could in order to expand the activities of his own office and throw the money of the people right and left.

And, as to subsidies, why, never at any time in the history of this or any other country were there so many subsidies granted to private groups and on such a huge scale.

The fact of the matter is that most of the cases now pending before the United States Supreme Court revolve around the point of whether or not it is proper for Congress to tax all the people to pay subsidies to a particular group.

Here is another one: "We condemn the extravagance of the Farm Board, its disastrous action which made the government a speculator in farm products, and the unsound policy of restricting agricultural products to the demands of domestic markets."

Listen, I'll let you in on something. This hasn't leaked out yet, so kind of keep it to yourself until you get the news. On the first of February we are going to own 4,005,000 bales of cotton. The cost is \$270,000,000. And we have been such brilliant speculators that we are paying thirteen cents a pound for it, when you add storage and carrying charges, and it can be bought at any one of the ten cotton markets of the South today for eleven and a half cents. Some speculators!

What about the restriction of our agricultural products to the demands of the domestic market? Why, the fact about that is that we shut out entirely the foreign market, and by plowing under corn and wheat and the destruction of foodstuffs, food from foreign countries has been pouring into our American markets—food that should have been purchased by us from our own farmers. In other words, while some of the countries of the Old World were attempting to drive the wolf of hunger from the doormat, the United States of America flew in the face of God's bounty and destroyed its own foodstuffs. There can be no question about that.

Now, I could go on indefinitely with some of the other planks. They are unimportant, and the radio time will not permit it. But just let me sum up this way:

Regulation of the Stock Exchange and the repeal of the Eighteenth Amendment, plus one or two minor planks of the

platform that in no way touch the daily life of our people, have been carried out, but the balance of the platform was thrown in the wastebasket. About that there can be no question.

#### DEMOCRATS OR SOCIALISTS?

Let's see how it was carried out. Make a test for yourselves. Just get the platform of the Democratic Party, and get the platform of the Socialist Party, and lay them down on your dining-room table, side by side, and get a heavy lead pencil and scratch out the word "Democratic" and scratch out the word "Socialist," and let the two platforms lay there.

Then study the record of the present Administration up to date. After you have done that, make your mind up to pick up the platform that more nearly squares with the record, and you will put your hand on the Socialist platform. You couldn't touch the Democratic. And, incidentally, let me say that is not the first time in recorded history that a group of men have stolen the livery of the church to do the work of the devil.

If you study this whole situation, you will find that this is at the bottom of all of our troubles. This country was organized on the principles of a representative democracy, and you can't mix socialism or communism with that. They are like oil and water. They refuse to mix. And, incidentally, let me say to you, that is the reason why the United States Supreme Court is working overtime throwing the alphabet out the window three letters at a time.

Now, I am going to let you in on something else. How do you suppose all this happened? Here is the way it happened: The young brain trusters caught the Socialists in swimming and they ran away with their clothes.

It is all right with me. It is all right with me if they want to disguise themselves as Norman Thomas or Karl Marx, or Lenin, or any of the rest of that bunch, but what I won't stand for is allowing them to march under the banner of Jefferson, Jackson or Cleveland.

What is worrying me is where does that leave us millions of Democrats? My mind is now fixed upon the convention in

June in Philadelphia. The committee on resolutions is about to report, and the preamble to the platform is: "We, the representatives of the Democratic Party, in convention assembled, heartily indorse the Democratic Administration."

What happens to the disciples of Jefferson and Jackson and Cleveland when that resolution is read out? Why, for us it is a washout. There is only one of two things we can do. We can either take on the mantle of hypocrisy or we can take a walk, and we will probably do the latter.

### THE CONSTITUTION OF THE UNITED STATES

Now, leave the platform alone for a little while. What about this attack that has been made upon the fundamental institutions of this country? Who threatened them, and did we have any warning of this threat?

Why, you don't have to study party platforms. You don't have to read books. You don't have to listen to professors of economics. You will find the whole thing incorporated in the greatest declaration of political principles that ever came from the hands of man, the Declaration of Independence and the Constitution of the United States.

Always have in your mind that the Constitution and the first ten amendments to it were drafted by refugees and by sons of refugees, by men with bitter memories of European oppression and hardship, by men who brought to this country and handed down to their descendants an abiding fear of arbitrary centralized government and autocracy.

And, listen, all the bitterness and all the hatred of the Old World was distilled in our Constitution into the purest democracy that world has ever known.

There are just three principles, and in the interest of brevity I will read them. I can read them quicker than I can talk them.

"First, a Federal government strictly limited in its power, with all other powers except those expressly mentioned reserved to the states and to the people, so as to insure state's rights, guarantee home rule, and preserve freedom of individual initiative and local control."

That is simple enough. The difference between the state constitutions and the Federal Constitution is that in the state you can do anything you want to do provided it is not prohibited by the Constitution. But in the Federal government, according to that document, you can do only that which that Constitution tells you that you can do.

What is the trouble? Congress has overstepped its powers. It went beyond that constitutional limitation, and it has enacted laws that not only violate that, but violate the home rule and the state's rights principle.

And who says that? Do I say it? Not at all. That was said by the United States Supreme Court in the last ten or twelve days.

Secondly, a government with three independent branches; Congress to make the laws, the Executive to execute them, the Supreme Court, and so forth. You know that.

In the name of heaven, where is the independence of Congress? Why, they just laid right down. They are flatter on the Congressional floor than the rug on the table here. They surrendered all of their powers to the Executive, and that is the reason why you read in the newspapers references to Congress as the rubberstamp Congress.

We all know that the most important bills were drafted by the brain trusters and sent over to Congress and passed by Congress without consideration, without debate, and without meaning any offense at all to my Democratic brethren in Congress, I think I can safely say without ninety per cent of them knowing what was in the bills, what was the meaning of the list that came over. And beside certain bills was "must." What does that mean? Speaking for the rank and file of American people, we don't want any Executive to tell Congress what it must do, and we don't want any Congress to tell the Executive what he must do, and we don't want Congress or the Executive jointly or severally to tell the United States Supreme Court what it must do. And, on the other hand, we don't want the United States Supreme Court to tell either of them what they must do. What we want, and what we insist upon, and what we are going to have, is the absolute preservation of this balance of power which is

the keystone, the arch upon which the whole theory of democratic government has got to rest, and when you rattle it, you rattle the whole structure.

The third one is methods of amending the Constitution. Of course, when our forefathers wrote the Constitution of the United States it couldn't be possible that they had it in their minds that that was going to be all right for all time to come, so they said, "Now, we will provide a manner and method of amending it." That is set forth in the document itself, and during our national life we amended it many times. We amended it once by mistake, and we corrected the mistake. What did we do? We took the amendment out. Fine! That is the way we want to do it, by recourse to the people. But we don't want an Administration that takes a shot at it in the dark, and that ducks away from it and dodges away from it and tries to put something over in contradiction of it upon any theory that there is going to be a great public howl in favor of it, and it is possible that the United States Supreme Court may be intimidated into a friendly opinion with respect to it. But I have held all during my public life that Almighty God is with this country and He didn't give us that kind of Supreme Court.

Now, this is pretty tough for me to have to go at my own party this way, but I submit that there is a limit to blind loyalty.

As a young man in the Democratic Party, I witnessed the rise and fall of Bryan and Bryanism, and I know exactly what Bryan did to our party. I knew how long it took to build it after he got finished with it. But let me say this to the everlasting credit of Bryan and the men that followed him, they had the nerve and the courage and the honesty to put into the platform just what their leaders stood for, and they further put the American people into a position of making an intelligent choice when they went to the polls.

Why, the fact of this whole thing is (I speak now not only of the Executive but of the Legislature at the same time) that they promised one set of things, they repudiated that promise, and they launched off on a program of action totally different. Well, in twenty-five years of experience, I have known both

parties to fail to carry out some of the planks of their platform, but this is the first time that I have known a party, upon such a huge scale, to not only fail to carry out the planks, but to do the directly opposite thing to what they promised.

Now, suggestions—and I make these as a Democrat anxious for the success of my party, and I make them in good faith. Here are my suggestions:

Number 1: I suggest to the members of my party on Capitol Hill here in Washington that they take their minds off the Tuesday that follows the first Monday in November. Just take your mind off it to the end that you may do the right thing and not the expedient thing.

Next, I suggest to them that they dig up the 1932 platform from the grave that they buried it in, read it over, and study it, breathe life into it, and follow it in legislative and executive action, to the end that they make good their promises to the American people when they put forth that platform, and the candidate that stood upon it, one hundred per cent. In short, make good.

Third, I would suggest that they stop compromising with the fundamental principles laid down by Jackson, Jefferson and Cleveland.

Fourth, stop attempting to alter the form and structure of our government without recourse to the people themselves as provided in their own constitution. This country belongs to the people, and it doesn't belong to any administration.

Next, I suggest that they read their oath of office to support the Constitution of the United States. And I ask them to remember that they took the oath with their hands on the Holy Bible, thereby calling upon God Almighty Himself to witness their solemn promise. It is bad enough to disappoint us.

Sixth, I suggest that from this moment on they resolve to make the Constitution again the Civil Bible of the United States and pay it the same civil respect and reverence that they would religiously pay the Holy Scripture, and I ask them to read from Holy Scripture the parable of the prodigal son and to follow his example. "Stop! Stop wasting your substance in a foreign land and come back to your father's house."

Now, in conclusion, let me give this solemn warning. There

can be only one Capital—Washington or Moscow. There can be only one atmosphere of government, the clear, pure, fresh air of free America or the foul breath of Communistic Russia. There can be only one flag, the Stars and Stripes, or the red flag of the godless union of the Soviet. There can be only one national anthem, the Star Spangled Banner or the Internationale.

There can be only one victor. If the Constitution wins, we win, but if the Constitution—Stop! Stop there! The Constitution can't lose. The fact is, it has already won, but the news has not reached certain ears.

## MAX D. STEUER

### CROSS-EXAMINATION, IS IT AN ART OR AN ARTIFICE?

Mr. Max D. Steuer was, in the opinion of many, our greatest jury lawyer. In this remarkable speech discussing cross-examination one may suspect that he is drawing freely from his own experience. The speech was delivered at the 43d Annual Meeting of the Missouri Bar Association, St. Louis, October 2, 1925.

MR. PRESIDENT AND GENTLEMEN OF THE MISSOURI BAR ASSOCIATION:—I find it extremely difficult to make appropriate acknowledgment of the very great compliment that has been paid me here this afternoon in the remarks of your President and Mr. Hocker. When I received the invitation from your President to come to address you, in the exuberance of the moment, little contemplating what I was letting myself in for, I immediately wired my acceptance. When the day was approaching for the event, I began to feel the fear that is now embarrassing me. I have not come here to deliver a speech. This will be a rambling talk on subjects with which you are at least as familiar as I am. Several of the newspaper men who are here asked me to furnish them with a manuscript of my address. I told them, as I tell you, there is none. I have never taken myself sufficiently seriously to write a speech on any subject. I have always considered it dangerous from more points of view than one. If you write a speech and read it, experience tells that the last pages are generally read to the writer [laughter]; if you write a speech and commit it to memory, there is always the possibility of forgetting it in the midst of delivery. Then the speaker is lost.

In New York, we have a very popular after dinner speaker in the person of the Reverend Doctor Stires. He was deliver-

ing a speech at a banquet one night. At the outset, he said to the assembled guests that before speaking upon his text, he wished to offer a toast. Raising his glass and looking toward the balcony where the ladies were to be found, he made a grand sweep and said: "To the ladies. To the ladies. To the ladies. The best part of my life I spent in the arms of another man's wife—my mother."

There was an Englishman on the platform who was to be the guest at a banquet a week hence. About ten minutes later, the sentiment which Dr. Stires had uttered reached him [laughter] and he applauded. Then he whispered to his neighbor: "Next week, I am going to be a guest at a banquet. That is a great toast the doctor has given, and I will repeat it in his very words when I am called upon to speak." His banquet, in good time, came on, and he had been praised by the speakers much as I have been here, and finally was introduced to his audience. He said: "Ladies and gentlemen, before I take up the text of my address, I wish to offer a toast that I heard in New York about a week ago," and raising his glass in imitation of Dr. Stires, he made a sweep toward the balcony and said: "To the ladies. To the ladies. To the ladies. The best part of my life I spent in the arms of another man's wife—[hesitation]—By Jove! I forget her name!" [Laughter continuing and applause]

In the outer room, a few moments ago, one of your members informed me that you have already listened to two addresses to-day. One was devoted to an expression of regret over the moral decline of the Missouri Bar. The second enlarged upon its ignorance. You are not at all unique in being thus addressed. Not only the Bar of New York, but the Bar of the country has, in the last few years, been treated to similar criticism. So you see, we can all sympathize with one another. Personally, I fail to understand any man, whatever his station, particularly if he be a member of the Bar, who entertains or expresses the view that the Bar of to-day is of a moral caliber or intellectual standing lower than the Bar of yesterday. Such a person, however exalted, is, nevertheless, ignorant of the history of the Bar. No well informed person would venture the assertion that there ever was a period when the American Bar

was as industrious, as intelligent, as capable, as courageous and as patriotic as is the American Bar at the present hour. I did not come here to discuss the moral standing or intellectual fitness of the present day Bar, but because of the utterances that have recently been made, so unwarrantably in my opinion, I will pause for a moment to call your attention to some of the conditions that existed at the New York Bar twenty-five or thirty years ago, only because I deem them typical of the Bar of the country and amply illustrative of the moral and intellectual advancement that has been made.

Our lowest courts of criminal jurisdiction in those days were presided over, as they are now, by magistrates. At the present time, one of the essential prerequisites to becoming a magistrate is active membership at the Bar for at least five years. In the period of which I speak, the magistrates were not required to be members of the Bar—very few of them were—and those who were had not been elevated to the Bench by reason of any professional eminence, but rather because of their political misdeeds. A number of the magistrates were keepers of saloons, dens in which much of the crime committed in the city was planned if not executed. The duty of the magistrate was to determine, in the first instance, whether the crime was committed and whether there was probable cause to believe that the accused committed it. It is not necessary for me to point out to this gathering, nor, indeed, to any other, the beneficial consequences of the change that has been made. I fear that when the crime with which the accused was charged had been planned in the saloon owned by the magistrate before whom the inquiry was being conducted, it was rather difficult to persuade the magistrate that a crime had been committed; much more difficult to convince him that there was probable cause to believe that the accused had committed it.

Our civil court of smallest jurisdiction was in those days known as the District Court. The judge, in order to be eligible for the position, had to reside in the judicial district. Territorially, that district was not large. The business of the courts, while rapidly growing, was not sufficient to keep a judge busy. He was permitted to practice in all the courts except the court of which he was a member. If the business

of the court interfered with his practice, it was quite customary to neglect the business of the court. But a much greater evil resulted from quite a different cause. In each judicial district there was a political club of which the judge was often the head or leader. Most of the members of the Bar, if not all, in the judicial district who practiced in the District Courts were members of the judge's club. Most of those men did not try their own cases in the upper courts or courts of record. Frequently, they retained the judge of the District Court to try those cases for them. These attorneys, when retained in a case over which the District Court had jurisdiction, instituted the action in the district where the particular judge presided. While it was a requirement to confer jurisdiction that either the plaintiff or defendant must reside within the district, this difficulty was readily overcome in an instance where the proposed plaintiff did not reside in the district, by assigning the cause of action to some one that did. Thus, the favored lawyer brought his case before the favoring judge. Is it necessary to point out the consequences that ensued from the existence of such a system? To-day, in the court which is the successor of the District Court of that day, the judges rotate every month, changing the district in which they preside. No longer is the judge permitted to practice in any court. The iniquities perpetrated in those courts while they existed are no more. Even in our courts of highest original jurisdiction in those days, calendars were made up for each judge sitting in a separate part. One could thus tell weeks in advance of the trial before what judge the case was to be heard. Not infrequently were cases adjourned so as to be brought before a particular judge. Indeed, it was even suggested that arrangements were frequently made with the clerk of the court by which cases appeared in a particular part of the court. From a knowledge of the part in which the case was to be tried, followed the opportunity of becoming acquainted with some, if not all, the jurors that served in that part. Since those days, the calendars are called in only a few of the parts of the court and assigned to the different parts for trial on the very day the trial is to begin. The abuses which were possible, resulting from the old system, are no more. These conditions were just as true in the criminal

courts of record as in the civil. District attorneys throughout the state and their assistants, federal and local, were not only permitted to practice in all the courts, but did so. The moral advancement of the Bar has been such that even where they are now permitted to practice, it is not done. The district attorney will not practice himself and will not appoint any assistant who does not agree to abstain from trying cases during his incumbency.

These are but few of the evils that existed. They reflect, in my opinion, the moral conditions that pervaded the courts of that day. A substantial improvement in that regard, in both Bench and Bar, has been made, and this, I am sure, is true not merely in New York, but throughout the country, if not the world. If indeed, the Bar of previous generations was altogether free from moral delinquency, how does one account for the public antipathy to the lawyer when Jack Cade's men were applauded for beheading all the lawyers they could find in England?

Montaigne expressed the contempt of his day for the legal profession by styling it: "The fourth estate of wrangling lawyers." Voltaire recorded the sentiment of his day toward the profession in the words: "Conservators of barbarous usages." Wordsworth described the fine feeling for the Bar when he declared:

A lawyer art thou?  
Draw not nigh,  
So, carry to some fitter place  
The keenness of that practiced eye,  
The hardness of that sallow face.

Johnson solemnly spoke:

God works wonders now and then,  
Here lies a lawyer, an honest man.

The law schools of to-day, by reason of their higher standards of educational prerequisite for admission and their very greatly improved method of instruction, make for a greatly improved Bar. The examinations which the applicants are required to

take constitute tests, if not sufficiently great, certainly much more vigorous than in times past. The Character Committees before whom the applicants appear, even after they have passed their Bar examinations, and to whom they must submit a practical history of their past lives, make for higher integrity in the profession.

The vigilance of the disciplinary committees of the Bar associations, local and state, much greater now than ever before, helps to keep the standards of conduct high. The knowledge that the privilege rests in a branch of the court to summarily disbar the practitioner, has its effect upon even the weaker members of the profession. The keen competition that exists because of the great numbers in the profession has helped to improve both the intellectual and moral standards. Now that each lawyer is supplied almost daily with the reports of the current decisions in all the courts, the necessary consequence has been that the lawyer of to-day is better informed, in the law at least, if not generally better informed, than his predecessor in the profession. The fact that lawyers are not lacking in number, if it has not increased the industry and kept it at its highest pinnacle for fidelity and loyalty, certainly has not tended to reduce it. Is it not strange then that among the members of the Bar and Bench, those who ought to be acquainted with the ordeals of the man who goes into the court, the man who trembles each time that he does go in, always fearing, always wondering, always hoping, fearing that he cannot do his cause justice, wondering if he is really fit for the task, hoping that nothing will remain undone that should have been done—is it not strange, I repeat, that those can be found within our ranks who will speak of a class of men, who by reason of their loyalty to principle and their devotion to a client's cause, lose sleep and health, who give themselves all that there is to give, making the sacrifice without thought of the financial emolument, not alone for the sake of the gain to the client but more largely by reason of a burning desire to be helpful in the administration of justice and to bring about its triumph;—is it not strange that those can be found who will speak disparagingly of him? To speak of the moral decline of the men who from the day of the birth of this country

have borne the most and the greatest of its burdens, have filled its high offices in the state and in the nation, and by faithful service and patriotic sacrifice have fully vindicated the confidence which has been reposed in them, seems to me to evidence not only ignorance of the real conditions of the Bar but sacrilege also. Rarely, very rarely, has the lawyer been found disloyal. Why is it then that so frequently, even in our midst, those who are called upon because they have reached positions of distinction in the profession, lend themselves to the fashionable utterance of the day by thoughtlessly arraiging the entire Bar, charging it with moral decline and intellectual lack because of the failure or misconduct of the few? [Applause continued.]

I say to the men and women of your state that if the members of your Bar were counted and an equal number were carefully selected from all the other professions and of the other different walks of life, a consideration of courage, ability, learning, industry, honesty, loyalty and patriotism, would disclose that the members of the Bar would compare favorably with those so selected.

All of this is far removed from cross-examination. It does seem like bearing coals to Newcastle that I should talk to you upon that subject. Your experience and reading thereon must be much the same as mine. What is the purpose of cross-examination? What is the result one hopes to achieve? Analyzed, must it not be to destroy the witness or the story told by the witness, or both? Oftentimes it does happen that the story told can be shattered, although the witness does not seem to have been reflected on; other times, that the witness is destroyed, though the tale told by the witness is not even referred to; and still others, that both can be destroyed. What then does one mean when one speaks of destroying a witness without directly attacking the story told? I take it I can best convey my meaning to you by giving you an illustration.

When Secretary of State Hughes was Governor of the State of New York, he conceived it to be in the best interest of the people that horse racing should be abolished. Many com-

plaints, it was said, had reached him from mothers, wives and employers that wages were dissipated at the race track before the earner reached his home with them. In consequence, he caused to be introduced in the legislature of the state a bill abolishing racing within the limits of the state. The racing interests had large investments that would be seriously affected by this piece of legislation. They bent their best efforts toward its defeat. The Governor and his friends put their energies to the task of seeing the bill passed. It finally came on for vote in the Senate of the state. The vote was about to result in a tie when a member of the body by the name of Otto G. Folker was brought in on a stretcher, and cast the vote that carried the bill. He was hailed as a hero. Many of the papers throughout the state spoke of his having risked his life to save the bill. Governor Hughes made some very complimentary comments upon his action. At the ensuing election, Folker was elected a Congressman from the State of New York. There had been a very considerable claim that large sums of money had been sent to the legislative halls and had been used in the effort to defeat this bill. The statement was frequently made that members of the Senate had been bribed. The rumor persisted until finally, for its own vindication, the legislature appointed an investigating committee. It was in session a long time. Clamor concerned itself with one Gardner who, some years prior to the introduction of this bill, had been a member of the Senate. The claim was that he had been the distributor of the money. A number of people were sought as witnesses. Gardner was among those missing. While the committee was still in session, he was found in Wilkesbarre, Pennsylvania, and brought back to New York by the then incumbent of the district attorney's office in the County of New York. Before that committee, Mr. Folker, then a Congressman, appeared and gave testimony to the effect that while he was on a train riding between Albany and New York, Gardner had asked him, Folker, to step into his drawing room, and while they were thus alone, had tendered him \$3,000 to induce him to vote against the bill to abolish racing. The chief assistant district attorney of a neighboring county told that Gardner had confessed to him that \$500,000 had been used with members of the legis-

lature, and that he, Gardner, had distributed a substantial part of it among the Senators.

The person in whose house Gardner had been found at Wilkesbarre testified to a similar admission. Gardner was indicted and brought to trial on the charge of attempted bribery of Folker. Folker was the chief witness against him. It must be borne in mind that he came to the stand as a Congressman of the United States. His alleged heroic act of being brought to the Senate on a stretcher was still in the public's mind. Upon his direct examination, he told of the interview with Gardner in the latter's compartment on the train. No one was present but Gardner and himself. Gardner alone could contradict Folker as to what took place at the interview. Folker was corroborated as to the fact that Gardner had asked him to step into his compartment. After Folker had testified to the interview, he was promptly turned over for cross-examination. That Gardner had a compartment on the train, that Folker was for a while in Gardner's compartment could not be disputed. Was there much chance for any cross-examiner to make Folker contradict himself as to what transpired in this brief interview during which he indignantly spurned Gardner's offer? Your experience answers that. The examiner spent some time in developing from Folker the incidents of his early life. Folker's version seemed very favorable to himself and was well told. It should be stated that at this time Folker was a member of the Bar. He was not a graduate of any university. Consequently, in the State of New York, he could only be admitted to the Bar by passing what is known as a regents examination. A certain number of points are required in order to obtain a regents certificate of eligibility for examination for admission to the Bar. Such a certificate had been issued to Folker. Inquiry and search had disclosed that neither Folker's regents examination papers nor his Bar examination answers could be found in the records. His were the only papers that were missing of the years during which he took these respective examinations. A card record, however, of the subjects in which Folker was examined and the percentages by him obtained was found in the files of the Secretary of State of New York. Upon his cross-examination, in developing his early life, Folker had

stated that he was brought to New York after he had reached what is known as the gymnasium in Germany. Immediately after his arrival in this country, he went to work. All his subsequent education was acquired in our night schools. He had never studied or learned French. He neither spoke nor read French and could not translate French into English or English into French. He had no acquaintance with logarithms; he did not know to what science they belonged. He claimed to be very proficient in German. He was sure he did not take an examination in French or in logarithms. He was positive he took his examination in German. He did not remember where he took his regents examinations. He could not recall the name of any of the examiners. There was no person in the room at the time whose name he could give. He was certain there was no other Otto G. Folker in New York. He had no relative of that name. There was no other member of the Bar of that name. Only one Otto G. Folker had ever taken a regents examination in the State of New York. He was certain he was that one. The card recording the subjects in which Otto G. Folker was examined disclosed that that individual was examined in French and received over 95 per cent. He was also examined in logarithms and achieved a percentage over 95. He was not examined in German. It developed that the regents certificate was delivered at an address at which Folker never lived, in which at first he claimed he had never been. After considerable refreshing of his memory, he recalled that he knew a young man who lived at that address. It developed that this young man was a student at the College of the City of New York. In the whole five years of attendance at that college, this young man was only absent on two days. Those happened to be the identical days on which Otto G. Folker took his regents examination. It also developed that the receipt for Folker's regents certificate given to the State Department was signed "Otto G. Folker" in the handwriting of this young man and not in the handwriting of Otto G. Folker.

There was grave doubt created by Folker's cross-examination as to whether he had ever passed a Bar examination, although the records disclosed that Otto G. Folker had passed. The papers, as previously stated, were missing. Folker also

found difficulty in explaining how he had obtained \$20,000 which had been deposited to his credit during the time that this racing bill was pending. This case was tried in December. Folker, on the witness stand, had perspired so freely that the examiner loaned him two handkerchiefs. At the conclusion of the cross-examination, not one word had been asked about the interview between Gardner and Folker on the railroad train, which was the basis of the indictment. When Folker left the court room, he was still a member of Congress of the United States. Congress was at that time in session. Since the time Folker left that court room, he has never been heard from nor has anyone seen him. The effect of Folker's cross-examination was to acquit the defendant.

I mention this incident only to illustrate that it is well to have in mind that if an interview is so staged in the course of a trial that mere denial would result to the great disadvantage, by reason of the position of the parties or otherwise, to the person denying, it might prove of value in cross-examining, to make a greater effort to destroy, by collateral inquiry, the credibility of the witness than to attempt to attack the story told. Of course, it is to be borne in mind that the answer of the witness to these collateral matters cannot be contradicted by direct evidence, so that the examiner must be certain of the accuracy of his attack and its destroying effect before he begins.

What does one mean by the suggestion "destroy the story, even though you do not attempt to reflect upon the character of the witness"? Again, I feel that I can best demonstrate my meaning by an illustration.

We had a case some time since in New York where one hundred and forty-seven girls were burned to death in one loft. At the time we had a law on the statute books called the Factory Act, which made it a misdemeanor for a factory door to be locked during working hours. It didn't make any difference how many factory doors there were in this one loft, every exit and every entrance had to be kept unlocked during the working hours.

In this particular loft there were two entrances about a block

apart; one would have been in that corner of this room and the other in the opposite corner. One was what is called the Greene Street door; the other was what is called the Washington Street door.

On a Saturday afternoon during working hours in this loft flames were discovered, and before that fire was extinguished, as I said to you before, one hundred and forty-seven girls perished in that loft.

We had and have a statute in New York which provides that if in the perpetration of a misdemeanor death results, it makes the crime a felony, and it becomes manslaughter. The proprietors of this factory were indicted on the charge of manslaughter some twenty-five or thirty times, the reason for the number of indictments being that in each indictment there was a different name of a deceased girl.

The trial of these two men came on. It would be interesting, but much too prolonged, if I could recall to you all the incidents of that most dramatic trial. Suffice it to say that the District Attorney had called one hundred and nine witnesses, and then, making a solemn pause and having brought about a complete hush—and up to that moment, I should say in passing, the name of the girl that was mentioned in the indictment as having lost her life had never passed the lips of a single witness; and we were in hope, high hope, that the District Attorney intended to rest upon the fact that he had proved that this girl was in that factory and that she had not been seen subsequent to the catastrophe, and that he had no evidence, because the bodies of these girls were so charred that identification was impossible, that this particular girl was seen to have come to her end in that fire—I repeat he had brought about a dramatic hush. One hundred and nine witnesses had been examined; and he announced to the court that he had but one more. Then he turned to the other end of the room and said, "Bring in Rose Schwartz."

The doors to the court room opened at a considerable distance from the jury box; each juror naturally was looking in that direction. There came through the doors a simply dressed, beautiful little girl, who was led to the witness stand and sworn, and after she had testified that she had worked for the de-

endants and worked on the day of the fire, and had pointed out on a chart of chairs the particular chair that she had occupied, and had given other details leading up to the occurrence that she was about to describe, the District Attorney said to her, "Now, Rose, in your own way, in your own way and in your own words tell the jury what you did and what you said and everything that you saw from the moment that you first saw flames"; and then Rose told in substance as follows:

The name of the girl mentioned in the indictment was Sadie Goldman. Rose said that she, Rose, was seated at her chair and she heard the buzzer in the factory which indicated the quitting hour; that she looked up and then she saw coming from the direction of the Greene Street door a flame, whereupon she looked over toward the Washington Street door and, as she looked toward the Washington Street door, she saw a crowd standing there, so she started for the Greene Street door hoping to skirt the flames; but as she started for the Greene Street door the flames spread the width of the loft, so she turned back and looked once more toward the Washington Street door and, as she looked, she saw that there was a girl who had her hands on the door knob and that she was turning it, first to the right, and then to the left, and then pulling, and then pushing, but the door would not open, and then the girl screamed, "My God! The door is locked!" With that Rose said she ran to the window, as many others had done, but when she got on the sill—and this was on the eighth floor—she looked down and saw the great distance, she became frightened and came off the sill again and stood on the floor, and glanced once more toward Greene Street, and seeing that it was one sheet of flame, started again toward Washington Street; and then she saw that from the Washington Street door the girls were running toward the windows, and the road became clear and she saw Sadie Goldman, with both hands on the door knob, turning first to the right, and then to the left, pushing the door, and pulling the door, but the door would not open, and the flames kept approaching. She ran to another window, looked out again, became horrified at the distance, came back to the floor and looked toward the Washington Street door; and there she saw Sadie Goldman again, squirming, holding the door knob,

turning and shaking and pulling and pushing it, but the door remained closed; then the flames enveloped Sadie Goldman, and she heard a scream, and she saw Sadie Goldman drop. She covered her face, but only for a moment, she did not know how long; when she looked up again, to her amazement, she saw Sadie Goldman, in flames, struggling once more with the door knob, getting her hands actually on it, and then falling down for the last time encompassed by the flames, and that she herself became unconscious and saw no more.

I cannot describe to you, gentlemen of the Missouri Bar, the pathetic picture made by that little girl. I cannot reproduce the tears that were running down her cheeks, nor can I tell you how the eyes of the twelve jurors were riveted on her and how they sat craning forward, thrilled by this girl's story and how they wept while she told it. Then, after a long, dramatic pause, looking in silence at her, the District Attorney turned and said, "You may [pausing slightly] cross-examine."

Did you ever hear a District Attorney say, "You may [pausing slightly] cross-examine"? [Laughter.]

You know, if he didn't say that you may [pausing slightly] cross-examine, you wouldn't know it. Such a thing would never occur to a person who is experienced in trials, that he has the privilege of cross-examination unless the district attorney graciously announced it. [Laughter.] When they feel that the defendant is already on the train, and that the whistles are tooting and that the next stop is Sing Sing, then they become very gracious, and say, "You may [pausing slightly] cross-examine." [Laughter.] Who understands a dilemma of that kind and could describe it better than my distinguished friend Hocker did in his comments to you? What examiner can tell under those circumstances what to do? Can any preparation put you in the state of mind to determine? There are many times, many times when a witness has given evidence very hurtful to your cause and you say, "No questions," and dismiss him or her in the hope that the jury will dismiss the evidence too. [Laughter.] But can you do that when the jury is weeping, and the little girl witness is weeping too? [Laughter.] That is the question. While there is no rule of conduct which tells you what to do, there is one that commands what

not to do. Do not attack the witness. Suavely, politely, genially, toy with the story.

In the instant case, about a half an hour was consumed by the examiner in finding out whom this little girl had seen, where she had lived, how she had been maintained, and where she had been during all the interval since the fire up to the time she was brought to the witness stand; very little progress was made; but the tears had stopped. And then, she was asked, "Now, Rose, in your own words and in your own way will you tell the jury everything that you did, everything that you said and everything that you saw from the moment you first saw flames."

The question was put in precisely the same words that the District Attorney had put it; and little Rose started her answer with exactly the same word that she had started it to the District Attorney and she finished it with precisely the same word that she had finished it to the District Attorney; and the only change in her recital was that Rose left out one word. And then Rose was asked, "Didn't you, in answering this question now, leave out a word that you put in when you answered it before?" And she said, "Did I?" and the examiner said, "I think you did." So Rose started to repeat to herself the answer [laughter], and as she came to the missing word she said, "Oh, yes!" and supplied it; and thereupon the examiner went to an entirely different subject and spent about thirty minutes more on that, when again he said, "Now, Rose, would you in your own way and in your own words just tell the jury everything that you saw, and everything that you said and everything that you did after you first saw flames?" And Rose started with the same word and finished with the same word, her recital being identical with her first reply to the same question.

The jurymen were not weeping. Rose had not hurt the case, and the defendants were acquitted; there was not a word of reflection at any time during that trial upon poor little Rose.

I just hold that out to you not because I recognize any art in it, but to suggest when there comes a critical situation, and you don't know what to do, why, just do anything [laughter],

because the situation is so bad it can hardly be made worse. [Laughter.] You may attack the story in any way that occurs to you. To attack the witness will likely prove disastrous.

Now, what does an examiner mean when he speaks of destroying not only the witness but the story as well? Again, I will endeavor to illustrate:

We had a case in New York wherein a broker was suing for a very large commission on the sale of real estate, and a janitress took the witness stand. Reading from a little diary, she said that on the 28th of December the broker, the proposed purchaser and the owner, the defendant, all came to her little apartment which was on the ground floor of the building in question, and the owner asked her to show the proposed purchaser through a number of the apartments.

It was right near the noon hour, and she demurred about going because her two boys were expected from school and she wanted to serve them with their lunch; but the owner insisted, and she went with the broker and the purchaser, showed them through a number of apartments, and when they came down the purchaser said, "Mr. So-and-so, I am entirely satisfied with the property and I accept it on your terms." Whereupon the owner turned to the broker and said, "I congratulate you; you have earned your commission."

In New York there is a habit that the selling owner has of always congratulating the broker [laughter] and telling him that he has earned his commission. [Laughter.]

Well, later, according to the story, he seemed to undergo a complete change of heart when time came for payment. Even that happens in New York. [Laughter.] So the broker had nothing left but to have recourse to the courts; and this suit came on, and he told this story and corroborated himself by his little memorandum book as to the date, the time, what was said, and everything else. And these brokers, they know their stories, and know how to tell them; this is one of the instances referred to by my distinguished friend Mr. Hocker when he said there may be times when cross-examination hurts. At any rate you can take it from me because I suffered somewhat, that he was not much hurt on cross-examination. And then

came the janitress; she went back on the owner and she told this incident in manner and substance as I have detailed; cross-examination did not discredit her story nor her. Then came the elder boy, a fine looking young chap, an upstanding boy of great promise; he went on to tell this same story, and added to the story that he and the little brother were detained in getting through lunch, so, after they had finished it, they ran back to school. He ran faster ~~than~~ his brother, so he got to school in time and was marked early; but the little chap could not run so fast, so he did not get there in time and was marked late.

There was no damage done to that boy.

Then came the younger boy; he told the same story about running back to school, getting there and being marked late.

I asked the younger boy, if it had not been for this incident of being late, whether he would have had any other way of recalling the occurrence, and he said he remembered the conversation; he also remembered the date. He remembered it because his mother mentioned it in connection with something that had occurred.

Then I asked the court for leave to recall the plaintiff, and had the plaintiff produce his little memorandum book and there in his little memorandum book was recited the occurrence, even the date, December 28th; and right below it was the **next incident** under date of December 29th.

Then I recalled, with the permission of the court, the mother, the janitress, and asked her how it was that she happened to make a note of the date; she said that she kept a diary; it was necessary to keep it because under each date she entered the rents as she collected them; she remembered a particular incident that had occurred at this very time when she made this entry under that date.

Then, with the permission of the court, the elder boy was recalled, and I said, "You have heard what your mother said and what this broker said, and you remember what you said." He said, "Yes." I said, "Now, would you mind explaining to this jury how it was that on the 28th of December you ran back to school in time to get there early, when all the schools were closed between Christmas and New Year's, and in that

particular year December 28th fell between Christmas and New Year's?"

That, to my mind, is a typical illustration not of art, but a destruction not merely of the story, but of the witness who told it.

You realize, of course, that however conceited and foolish I may become by reason of the character of my introduction to you, I did not expect to tell you anything new about the art or the artifice of cross-examination, whichever you determine it to be. I came, and was glad to come, because I wanted the opportunity of meeting the members of the Missouri Bar; and I have met them. I have talked to you about this subject only because, unfortunately, on occasions like this there must be talking done on some subject; it seems to be a custom.

I recall that Walter Hines Page, of speeches that were made in England, wrote to President Wilson that they are oftentimes like eggs. "You don't need to eat the whole of an egg nor hear the whole of a speech to know that it is bad." [Laughter.]

There is a French proverb which says that any old place in a speech is a good place to stop. If, as far as you have gone, you have made a good speech, it is a good place to stop; and, if, as far as you have gone, you have made a bad speech, it is a hell of a good place to stop. [Laughter and applause continuing.]

I have been told since coming here that you were so gracious to the trial bar of New York some years back as to invite Martin W. Littleton to be your guest. So many nice things have been said to me of him and his speech, I am tempted to tell you just a brief episode about him, which I trust will amuse you.

We had a man in New York who has lately passed away and who was just as popular as Martin and just as capable. They were among the best after dinner speakers in New York. You have probably heard Job Hedges; if you haven't heard him, you have heard of him. They were both invited to speak at the same banquet, and Job Hedges spoke first. After talking about an hour, Job said, "I have finished my speech; now I am going to make Martin Littleton's speech," and he started all over again and spoke for at least an hour more. All the time

Martin sat there chafing at the bit. Finally Job said, "Well, now I have concluded Littleton's speech"; and sat down. Then the presiding officer introduced Martin Littleton.

Martin said, "My time has been taken up, and I know that you are too weary, after having listened to Job, to want another speech; I will ask you to tarry while I tell you of an episode in my father's life.

"I was born in the mountain district of Tennessee, and, among other things that my father did down there, was to raise hogs. One day my father was out in front of the house, feeding whole raw carrots to the hogs; a neighbor passed by and said, 'Mr. Littleton, that's no way to feed carrots to the hogs.' My father said, 'No? How do you feed carrots to the hogs?' He said, 'Why, Mr. Littleton, you boil them, and you slice them, and then they digest them much more quickly.' And my father said, 'What's time to a hog?' [Laughter continuing.] I realize that I have taken too much of your time."

I cannot begin to tell you how much I appreciate your invitation, your cordial reception, and your very, very kind attention. I know that it was no personal compliment; I know it was intended as a compliment to the trial bar of the great State of New York. Gentlemen of Missouri, if I have done justice to that Bar, I am very, very proud; if I have failed, I am nevertheless elated at having been with you.

[Applause continuing. The audience rises, continuing to applaud until reseated by the President.]

# HARLAN FISKE STONE

## THE TRAINING OF LAWYERS

Harlan F. Stone was born in New Hampshire in 1872, graduated from Amherst College in 1894, from the Columbia University School of Law in 1898, was admitted to the New York Bar in 1898, and was dean of the Columbia University School of Law from 1910 to 1924 when he was appointed attorney general of the United States. He was appointed justice of the Supreme Court in 1925. This address was delivered at the induction of Huger W. Jervey as dean of the Columbia Law School, at Columbia University, November 17, 1924.

WE are gathered here, drawn by the ties of a common association, to bring our greetings and our good wishes to a new leader of an old and honored institution. The occasion is one which stirs the recollection and our sentiment of attachment for the past, but even more, it kindles our hopes and our enthusiasm for the future. We recall the service rendered to this institution and to our profession by its distinguished leaders of the past; by Kent, by Dwight and by Keener, and all of those who have participated in its educational work from generation to generation. We recall the service which this institution has rendered to our profession and to the public in the one hundred and thirty years which have elapsed since law was first made the subject of study and exposition within its walls. We recall the changes which have taken place in these years, not only in the methods of law study and in the art of its exposition, but in the law itself. We bring to mind the development which has taken place in this school in the interest of sound scholarship in law. We recall with satisfaction its growth in power, in influence, in resources and in its capacity to serve. These are the elements, intangible and imponderable though they be, which nevertheless give to our school of law its charac-

ter and give to it the institutional personality which has laid firm hold on our loyalty and our attachment. They constitute the ground work on which we must build to make the Columbia Law School that is to be, whose future we now commit to new leadership.

As we survey its past there are certain outstanding characteristics in its development and in its tradition which it will be well for us to recall, for only as we take the full measure of the past shall we be able to take full advantage of all that the future holds in store. The study and teaching of law at this University has passed through three phases in its history; each distinct in its character; each clearly defined and each clearly set apart from the others in point of time and of personal leadership.

When James Kent began his law lectures here in 1794 and later renewed them in 1823 there had been no effort in America, worthy of note, at the systematic exposition of the principles of Anglo-American law. The English common law had been developed as the principles of an art are developed, in the process of their practical application. The sources of our knowledge of its principles were in the reports of judicial decisions dating back to 1290 and in the tradition of its practice and its more or less fragmentary and pedantic exposition in the texts and treatises of the occasional writers on the English Common Law. Four times in its history there had been essays at a comprehensive statement of its more essential principles, each marking distinct periods in its progress. Bracton, Littleton, Coke and Blackstone are outstanding figures in the history of the common law, not only because they stood almost alone in their institutional treatment of the law, but because their treatises mark the great epochs in its development from simpler to more complex forms and in its expansion to adapt itself to the needs of an expanding civilization. It remained for Kent to add the fifth and last of the great institutional treatises on the common law and to identify it with instruction in law at an American institution of learning. His aim was not the strictly professional training which has become characteristic of modern law schools. His hearers were not all lawyers or even law students. He gravely assures us that his lectures were

attended "by seven students and thirty-six gentlemen." His approach was not narrowly technical. His purpose was the enlightenment and liberalization of his profession, but it also embraced the cultivation of the knowledge of laymen of our legal institutions as a worthy part of liberal training. With powers of scholarship surpassing those of any of his predecessors in this field; with a lofty elevation of thought and a rare felicity of expression, he carried on in this University the noble task of scholarship and exposition of legal science, which ripened into the production of one of the great classics of legal literature.

The time had not yet come for the development of legal training as a preparation for professional practice. The requirement for that type of training could be fully met by apprenticeships in law offices and with the fruition of Kent's undertaking in his "Commentaries on American Law," the University study of law in America gave pause until the development of its next phase in the organization of strictly professional law schools devoted to the training of students for admission to the Bar and for the practice of their profession.

This phase of American legal training found its most notable exponent and representative in Theodore Dwight, who for a generation as professor and Dean of our School of Law gave to legal education its utilitarian trend more than any other person of his time. The then dominating conception of law was that of a congeries of legal rules and principles to be mastered by the study both of texts and cases and by classroom discussions and applied as controlling rules to cases as they arose. Historical, as well as social and economic considerations, while not wholly disregarded, were, nevertheless, subordinated to the process of developing formal statements of existing legal rules and doctrines and their classification and arrangement in such manner as to make them most available in practical use.

To the work of the law teacher, Theodore Dwight brought a unique capacity for reducing to orderly and systematic form a subject matter which almost defied systematization, unrivaled power as a teacher and a gentleness and kindness of disposition which made him the idol of a whole generation of law students and lawyers at our Bar.

But the birth of the scientific spirit in research and in educational method produced its inevitable reaction upon law and law study. The spirit which in the latter part of the nineteenth century began to urge all mankind to trace human knowledge to its sources, to subject accepted doctrine to reëxamination and analysis, has brought to the lawyer and the law teacher a new and larger conception of the functions of legal education. It is a conception which embraces not merely an acquaintance with settled legal rules and doctrines for the use of the practitioner but which aspires to bring to mankind a more profound knowledge of legal principles and their more perfect adjustment to the social and economic organization of society.

The first step toward the realization of that conception has necessarily been a more penetrating and a more precise examination of the vast store of legal precedents which the common law had accumulated in the course of some seven centuries of its growth and development. Hand in hand with this process of analysis has come, as a necessary adjunct to it, a more exacting training of the intellectual powers of the student to deal with legal material and consequently an enlarged capacity on the part of the law school graduate to do the work of the lawyer and the judge.

Columbia Law School entered on this phase of its history when William A. Keener became Dean of the School in 1890. For his vigorous exposition of this newer conception of legal education, for his rare gifts as a teacher and his firm faith in the soundness of the system which he established here, Columbia owes to him and to his memory a debt which can never be repaid. He laid the foundations of the school as we know it to-day. He gave to his students and his associates in the faculty an inspiration and faith which have enabled those who followed him to build on that foundation.

The work which has been carried on here in the intervening years has been the preliminary work which it was needful should be carried on for at least a generation before its full fruits could be gathered. During these years we have been engaged, as at other American law schools, in the examination and analysis of the law as a mass of technical legal doctrine

embodied in precedent. The process has been in the first instance, as was inevitable, an appraising of technique, a defining and systematizing of our formal knowledge of law, a clearing away of non-essentials, the defining and accounting for the anomalous, a noting of the technical processes by which the law has been built up. But complete analysis of legal doctrine brings one always to its causal elements, to historical origins, to its underlying philosophy and to an examination of the necessary relationship which must exist between law as a social instrument and society itself. The very processes through which we have been passing in the development of our educational work here, as elsewhere, has prepared the way and brought us close to the next phase in the development of legal education in which it is the great privilege of our new dean and his associates on the Faculty of Law to take an active and guiding hand.

These years of pioneer work have not only prepared us for a more penetrating inquiry into the relationship of law to the social functions which law controls, but have brought to us a full realization that logic and history are not the keys which alone will set free the vital spirit of the law. Satisfaction of our innate sense of justice and utility are its ultimate goals. Neither can be fully gained without resort to a complete, accurate and sympathetic survey of the social and economic facts to which rules of law must apply. Nor can we begin the race for the goal without founding all law study on the firm basis of a well organized knowledge of social institutions and their functioning.

This University has long recognized the importance of study of the social and political sciences to an adequate understanding of our law and it has given to her students of law both freedom and encouragement to pursue those studies. But we have now come to a point in the development of legal science and in our study of it, where the acquaintance with the economics of the modern world and with social institutions requisite to present day law study, is not being provided by most American colleges and cannot be obtained in courses in political science which parallel the courses in the law school. Whether this requisite educational experience is to come from an improved

and more skillfully devised study in these fields in American colleges or whether the law school is to take the initiative in bringing into closer relationship with its work as now defined, graduate studies in economics and social science, is one of the interesting problems which invites attention and suggests new and engaging possibilities in the arrangement and organization of law school studies. Whatever the solution may be or whether there can be any completely satisfactory solution without an impracticable reorganization of our American system of college education, I am confident that we shall find in the work of American law schools an increasing emphasis on the social and economic foundations of all legal rules and an increasing tendency to weigh and measure legal doctrine and guide its growth on the basis of a more complete understanding of the social and economic significance of the particular facts to which it is to be applied.

Nor can future studies of legal science be limited as exclusively as hitherto to substantive legal rules and rules of procedure. In the field of legislation, of administrative law, in the processes of law enforcement, there are involved problems which go to the root of the effective administration of our legal system. Perfection in our law does not necessarily mean its successful administration. The wisest law is not self-executing and our institutions for legal training will not have fulfilled their mission until they have blazed a trail into the thickets and across the quagmires which lie between the law of the law books and the field of its actual operation in the control of human action.

There is a growing and insistent complaint that our system of law enforcement is breaking down and that there is an increasing lack of respect for law. The vigor and fidelity of public officials and the temper and psychology of the people are elements of first importance in all problems of law enforcement. But upon them the whole responsibility for its success does not rest.

We make a prodigious number of laws. In enacting them we disregard the principles of draftsmanship and leave in uncertainty their true meaning and effect. More and more we take over into the field of positive law that sphere of human

action which has been hitherto untrammelled by legal restrictions, without thought of the extent to which a wise policy may leave some phases of human activity to the control of moral sanctions or to the restraints of the community sense of what is right conduct. We disregard the principle that there is a point beyond which the restraints of positive law cannot be carried without placing too great a strain on the machinery and the agencies of law enforcement. We leave out of account the true relationship of the law to be enforced to the agencies for enforcing it! We build up our administrative machinery with ever increasing powers and authority in administrative officers at the expense of individual liberty and freedom of the citizen.

To preserve in our system the principles of individual liberty and to accommodate to them the requirements of an efficient administrative system, to ascertain the principles which govern the relationship of positive law to the machinery and processes of law enforcement are problems which cannot be solved wholly in the field of politics and of government. To their solution, schools of law and of political science have contributions to make. There must be brought to bear upon them the same thoroughgoing research, the same analysis carried forward in the spirit of science and of scholarship as have hitherto been devoted to the study of the problems of the common law. These fields of study and investigation, these opportunities for high public service insistently call for the employment of that unique capacity for research and analysis which has been developed by the methods of study and instruction in the modern American law school. They urge upon us the improvement of the unrivaled opportunity of this and other schools to increase and disseminate knowledge in our profession and with the public at large of the sound principles which must govern and make effective law administration as well as the principles of the law itself.

But with all our high hopes for the future, and with all our confidence in what the future may bring, inspired as they are by the personality of the character of the new leadership which we welcome to-night, let us not forget the lessons of the past.

Law is neither formal logic nor the embodiment of inexorable

scientific laws. It is a human institution, created by human agents to serve human ends. The attainment of its ultimate end and its successful administration, whether in the field of constitutional law or of private law, must depend in large measure upon the sympathetic popular understanding of its essential aims and of the more fundamental notions which underlie it. Is it too much to expect that with so much of achievement to our credit, we may include in our aspirations the hope that in the University and the law school something more may be done to humanize law and lawyers, something accomplished to clothe the bare skeleton of legalism with the grace and dignity and beauty which are rightly attributes of the most sacred aspiration of mankind, the aspiration for the realization of justice on earth? May we not hark back one hundred and thirty years to the fine liberalism and the humanistic spirit of Kent which led him in his first lecture in Columbia to say:

If he, to whom is intrusted in this seat of learning the cultivation of our laws, can have any effect in elevating the attention of some of our youth from the narrow and selfish objects of the profession, to the nobler study of the principles of our governments and the policy of our laws; if he can, in any degree, illustrate their reason, their wisdom and their propitious influence on the freedom, order and happiness of society and thereby produce a more general interest in their support, he will deem it a happy consolation for his labors.

Let us remember, too, that the aim of all law is utilitarian and only by an enlightened and progressive utilitarianism can our school reach its highest usefulness. Let us hitch our wagon to a star, but let us remember that it will function as a wagon only by permitting its wheels to roll on the solid structure of mother earth. This does not minimize science. It does not disparage scholarship or research. On the contrary, whatever increases knowledge of the law, whatever enlarges our understanding of it, whatever adds to our power and facility in the use of it, renders law itself more useful to society and enlarges our service to mankind.

But the only way in which our message may be carried to our profession, and through it to the public in any effective way is

through the graduates of our school, soundly and thoroughly trained in the principles of English Common Law and Equity, skilled in the analysis and judgment of legal problems, who speak a language which bench and bar can understand and who possess a sympathetic understanding of both the best traditions and the finer aspirations of our professions. We shall continue to send forth such graduates only through the continued presence here of gifted teachers of law and through a consistent policy of emphasizing in this school the importance of a skilled and enlightened exposition of legal principles to the end that we not only serve our profession by the steady improvement of its personnel but that whatever contributions we may make to legal science may be sympathetically and competently interpreted to our profession and to the public.

Let us hold fast, then, to the belief of Dwight and Keener that no law school can reach its highest usefulness which does not make its first objective the adequate training of competent lawyers. Let us hold steadfastly to their aim to make the teaching of law at Columbia preëminent in its skill and in its devotion but let us nevertheless enlarge our views of the utility in the highest sense of scholarship and the scientific spirit in the field of legal education.

It is an enlightened utilitarianism which must lead us as a school to keep in close touch with the Bar and with our alumni. The action and reaction which go on between school and university and alumni, especially when the alumni are members of a great profession, are not to be valued lightly. For what the Bar can bring to the school in understanding of the problems of law and lawyers in the workaday life of the office and court room; for what the school can bring to the Bar in legal scholarship and in idealism, in raising its standards, in making it a better and more worthy profession, in giving to it renewed faith in the strength and value of our profession, let not the school and the profession grow asunder.

I cannot close these remarks without a personal word. For Huger W. Jervey, our new dean, I feel that peculiar warmth of affection which the teacher must always hold for his student who has the rare distinction of being both sound and brilliant. It is no accident that he was the unanimous choice of trustees

and faculty to fill the position to which in a real sense he has been called. He possesses that golden treasure which enriches and enlightens and ennobles all that it touches, a profound knowledge of Greek language and of Greek culture. He has the capacity for scholarship and a love for it. He possesses the gifts of the teacher. He has a gifted voice and a gifted pen. He will seek truth rather than novelty, but he possesses that openness of mind which does not reject the truth because it is novel. With all these he brings to the service of Columbia a ripe experience in the practice of his profession and a just and comprehending estimate of the relationship of our profession to the enterprise of legal learning in a university.

We welcome him here. We wish for him the joy and accomplishment of successful leadership. We confidently predict it. And under his guidance, with the loyal support of the faculty, we look forward to a school of wider influence and steadily growing capacity for service to our profession and our country.

# MELVILLE ELIJAH STONE

## THE REVOLUTION OF 1893

Melville E. Stone was for many years leader of the profession of journalists and one of the best known men in this country. He was born in Hudson, Illinois, in 1848, became a reporter on the *Chicago Tribune* in 1864, and established with a partner the *Chicago Daily News* in 1875. He was general manager of The Associated Press from 1893 to 1921 and counselor from 1921 until his death in 1924. The following address was delivered at Minneapolis, February 15, 1924, and deals with the establishment of The Associated Press.

WHEN, in this country, we speak of the Revolution, of course we refer to the contest which began at Concord Bridge and ended at Yorktown. As a result of that revolution, our fathers founded a Republic, based on the principle that all governments should derive their just powers from the consent of the governed. It was admittedly an event of very great importance. Its influence swept back over the seas, inspired the French Revolution and in the end broke down one autocracy after another and gave parliamentary sovereignty to many states.

Little more than a century later there was another revolution in our land, which seems to me to have been also of distinct consequence. It was a logical complement of the struggles and the triumph of the embattled farmers of the colonies. Yet, to this second revolution little heed has been paid and few people have any idea of its existence, its purposes or its effect. Permit me to say something of it. While the revolution against George III went to the question of our political system, it was a corollary of the principle of self-government by the people of the country that the people should be informed to the end that they could form intelligent opinion respecting their civic

duties. Hence, the obvious demand for a free press. This demand had been voiced in England two centuries before and on the formation of our Republic after the surrender of Cornwallis, it was made the first clause in the Bill of Rights of our Constitution. Yet, strangely enough, we did not achieve a free press for still another century. Government control of the press was universal throughout the world for many centuries and through the first clause in our Bill of Rights was broken down in this country, but we did not appreciate that private control was no less malign than government control.

As I have said, if it were desirable that the governing populace of our Republic should be intelligent, it was all-important that there should be an honest, impartial news service. The gathering and distribution of news, however, had been from the beginning under private control. In a systematic way it began about thirty years after the adoption of our Constitution, but amounted to comparatively little until the invention of the telegraph by Professor Morse in the late forties. News was always a commodity to be bought and sold, and even after the invention of the telegraph the limited wires made it impossible to provide fully for the needs of the newspapers. Wherefore, a few of the New York journals organized a little company called The Associated Press, gathered substantially all of the foreign news by meeting the incoming steamers in the New York harbor and all of the Washington news by utilizing the telegraph lines. This news they sold to the papers in the hinterland as these papers developed. It was a close corporation.

As time went on and the newspapers in the back country increased, small tributary organizations were formed. There were the New England Associated Press, the New York State Associated Press, the Southern Associated Press, the Western Associated Press, the Northwestern Associated Press, and others. In 1892, this central group of a few papers in New York passed under the control of three men—one a Chicago banker, another a telegraph operator, and the third a business manager of a New York paper. These men were responsible to no one and were bent only on money making. The menace was obvious. Not only were the newspapers dependent on the caprice or worse of these men, but away beyond that the

public was subject to any sort of misinformation. As citizens, therefore, there was a problem far more important for the newspapers than any private interests they might have had. It was a problem which went, as you must see, to the very fundamentals of our form of government.

This was the immediate cause of the revolution of 1893. It began in Chicago. The newspapermen served by the Western Associated Press, mindful as well of the public duty as of their private interest, revolted against this sort of control. There followed a struggle of four years' duration. It was a bloodless contest, yet none the less revolutionary. The Western men set out to form a national organization, refusing any arrangement with subordinate associations. It was to be an association that should wrest the whole business from the hands of profiteers and place it in the hands of a purely coöperative organization—an organization that should sell no news, make no profits, declare no dividends, but should be the agent or joint reporter of its members. It was believed that if the people of the country were capable of self-government, a presentation of the facts would enable them to form their own opinions. Therefore, any attempt to introduce opinion upon any event was forbidden. The Associated Press might tell the story of a robbery, but it was not permitted to say that it was wicked. If there were any departure from this rule, you must see that somebody's opinion would have to be presented, and the question naturally arises whose opinion. And what assurance did the public have that that opinion was a correct one?

It may be said that this policy meant that The Associated Press should see a great wrong and make no effort to prevent it, or that The Associated Press could do nothing to help along a good cause. The answer still remains that, given the facts and the assumption that the people were capable of self-government, the people should be able to form their own judgment and that if an attempt was made to attach opinion to the statement of fact, owing to the frailties of human nature, it would lead to dangerous errors of judgment, which would be really disastrous. The expression of opinion respecting any facts presented by The Associated Press, is left to the newspapers receiving the service. It is there that it belongs.

There are about 1300 daily newspapers in the organization. They represent every conceivable point of view respecting politics, religion, economics. However prejudiced these members are, they are one in their desire and demand that the organization furnish unbiased news and do it as truthfully as human frailties will permit.

The privately owned organization went down in defeat and in bankruptcy in 1897. The wisdom of the plan of the founders of The Associated Press in refusing to deal with tributary or sectional organizations was then apparent. The bitterness growing out of our Civil War had not altogether disappeared. But when, under the revolutionary body, the Yankee editor and the Rebel editor met they saw that neither was as bad as had been believed. While the Yankee held fast to his old-time principles, as did the Southern editor, they both learned that they could "hate the sin, but love the sinner." The Northerner came to see that our carpet bag rule in the reconstruction days was a sad mistake and while the Southerner may still have cherished his academic view as to the right of a state to secede, he recognized that the issue had been settled at Appomattox and he fully assented to the view that human slavery was a woeful mistake.

And so a year after the close of our revolutionary contest, Joe Wheeler, the gallant ex-Rebel chieftain, marched side by side with his old-time Yankee opponents to do battle for the republic in the Spanish War. And in the Great War of 1914 we went in as a united nation, knowing no north, nor south, nor east nor west.

This, I believe, was largely the outcome of the revolution of 1893. As a feature of the organization, it was expected and desired that it should be the subject of criticism. It was the intention of those who founded this new association that in the phrase with which John Bright opened one of his great speeches in England, it should enjoy the "great advantage that it would have no want of ample criticism." It was controlled by a Board of Directors elected by the members and through all the years with which I have been associated with it, neither myself nor any other employee would have ever dared to favor or oppose any candidate for a seat upon this Board of Directors. I

know of no institution that has been so fully self-governed.

To those of us who have been engaged in the work, it seems strange that there should be any ignorance concerning it; any doubt as to either its usefulness or its integrity; or, indeed any such curiosity respecting it as to make it an interesting topic of consideration. All of its activities are carried on in the daylight, under a blazing sun. There are no secrets about it—in fact there can be none. The news which it furnishes to the newspaper membership is furnished in the phrase of Mr. Lincoln, "with malice toward none, with charity for all." Its good name, like that of any man or institution, has been fairly earned. There has been no trick about the business. For over thirty years Directors have come and gone, have lived and died. They have been of every conceivable religious, political and economic affiliation. Yet all of them have borne their part in the effort to make The Associated Press worthy of public confidence as a source and distributor of truthful and unbiased news. Every man who has sat on its Board and has participated in its management can look you full in the face and tell you that there has ever been a painstaking endeavor to make it honest, impartial and faithful to the trust reposed in it.

And yet in Mr. Bright's words: "There had been no want of ample criticism." Criticism, good, bad and indifferent. Sometimes amusing, sometimes irritating. Intelligent, truthful criticism, which is welcome because it is helpful. Ignorant, but honest criticism, which is not objectionable, because an explanation is all that is necessary. Malicious and untruthful criticism, which is not hurtful because in the words of the President who died the other day, "the truth will prevail."

Attacks have been freely aimed both at its form of organization and its method of operation. For instance, it is openly charged by an officer of the Ku-Klux Klan that it is controlled by Jewish influence or that it is pro-Vatican in the tendency of its news service. It can hardly be necessary for me to say that I am neither a Jew nor a Catholic. On both my father's and my mother's sides I come from a long line of Methodists. My father was a Methodist minister, as was his brother, the Rev. David Stone, who spent his last years as a member of a Minnesota Conference. And John Wesley, in his day, preached

in the barn of my mother's grandfather, Robert Creighton, in Cavan, Ireland. Read Mr. Wesley's Diary and you will see that he says so. And in the picture of Mr. Wesley's deathbed, often found in a Methodist home, the Rev. James Creighton, my great-uncle, stands holding the hand of the dying founder of the denomination.

While I trust everyone connected with the organization approves the first article in the Bill of Rights adopted by our forefathers assuring freedom of worship in this country, and while in the past thirty years at least five directors have been elected every year—the Board consisting of fifteen members—it happens that one Jewish gentleman alone is or ever has been a member of the Board. That gentleman is Mr. Adolph S. Ochs of the *New York Times*, whose standards in journalism must be approved by every right-minded citizen. And as to the Catholic affiliation of members, in all the thirty years, I think it is true that there never have been more than two members of the Catholic Church on the Board at any time and not half a dozen altogether. I am making this statement not because anybody that I know of has ever undertaken to determine the religious beliefs of the members of the Board as a ground for judging their qualifications, but as an illustration of the false charges made against the institution.

One Sunday morning in a Methodist church in New York I was asked to speak on The Associated Press. Before I finished, I said I should be pleased to answer any inquiry. A man arose and amazed me by asking what control John D. Rockefeller and J. P. Morgan exercised over The Associated Press. When I replied that neither Mr. Rockefeller nor Mr. Morgan had or had ever had the slightest control or connection, direct or indirect, with the organization, he added to my amazement, by the statement that he was a lawyer with an office in Wall Street and that he had always supposed that these men owned The Associated Press and that he had often told his friends that they did.

On the other hand, on one occasion a Rochester paper failed to publish an Associated Press dispatch respecting an ecumenical council of the Catholic Church. A Catholic priest of Rochester wrote me that he supposed because of my Methodist

proclivities I had suppressed any account of the meeting. I replied that "our papers" (meaning those we served) were free to publish or discard any of our dispatches, to which the poor gentleman came back with the statement, "You say they are your papers. As you own them, why can't you make them print the dispatches?"

As I have said, many of the criticisms are born of ignorance of the facts. For instance, a man reads something in a newspaper and either overlooks the credit line or it may be there is no credit line, and he assumes that it is an Associated Press telegram and at once charges us with the responsibility for it. Of course his charge is unintentionally unjust. Again the accusation has been made respecting the condition of Lenin, the Bolshevik leader, that The Associated Press announced his death half a dozen times before it actually occurred. Well, the fact is that The Associated Press from time to time said the *Berlin Tageblatt* reported the death of Lenin, or it may be that the *Secolo* of Milan reported it. In each case the statement of The Associated Press dispatch was not that Lenin was dead, but that somebody said he was dead, and that somebody was always given as our authority.

It may also interest you to learn that by actual investigation in the thirty years that have passed, although thousands of words have been sent out daily, and although there are thirteen hundred daily newspapers printing its dispatches the total cost of lawyers' fees and all other payments incident to libel suits have been less than the cost of the lead pencils used in the service. This must be some proof that accuracy is earnestly sought. I do not pretend that The Associated Press is perfect. Absolute inerrancy is impossible. The frailties of human nature attach to its work as they do to others, but this much is certain, that it is not intentionally untruthful.

Moreover, I may say to you that no charge of mismanagement has ever been ignored, so far as I know. I myself have undergone a number of investigations and, as I have said, any attempt to whitewash me by any member of the Board would only arouse my contempt.

# AUGUSTUS THOMAS

## THE GOLD MEDAL FOR DRAMA

Address by Mr. Thomas, upon the presentation to him of the gold medal of the National Institute of Arts and Letters for Drama, at its public meeting in conjunction with the Academy of Arts and Letters in Chicago, November 14-15, 1913. Other speeches by Mr. Thomas are given in Volume III.

MR. PRESIDENT:—I cannot conceive of a jury in the United States, however that jury might be constituted, however chosen or appointed, however commissioned or delegated or empowered, whose approval in a field of art or of letters would be so authoritative as is the approval of the men and the organization for whom you speak.

The proper fear concerning that approval is not that it may not be sufficiently esteemed, but that its bestowal may in the recipient produce self-consciousness to a benumbing and inhibiting degree.

Nothing like this presentation has ever been done to me except once, and my experience then does not help me now, because then I was alone, and because we had nothing to do but to take it and not let our new shoes squeak so much going back to our seats. In the present parallel to that remembered scene I miss this morning our parents standing about the wall. I miss—my eyes aren't as good as they were then—I almost miss the girls in their pink ribbons. I miss the lilacs on the teacher's desk and, just behind her, the Tropic of Capricorn. It had been there all winter, but never so awfully plain as on that shiny morning in May with the sun outside and then the cowbells, and the trees, and the great, wonderful world turning on

Reprinted by permission from Proceedings of the American Academy. Copyright, 1914.

its own axis once in every twenty-four hours. That was forty-five years ago, and although I have remembered it ever since, the Tropic of Capricorn has never been of any real help to me until now.

My mother was eighty-nine last March, and, besides, she is not very well. The other children couldn't get away, and she has had to live in St. Louis. I have decided not to go back to New York to-night, but to go home and show her this medal. She will not appreciate it as much as I do, and although I shall explain to her how kind you men are, and how careful you have to be, she will only wonder what has made all the delay.

When we grow up it is not good to be too proud, but one may certainly take to himself such comfort as he may find in that clause of your constitution which provides that this medal must be given to a living person or to one who has not been dead more than one year; and as this embarrassing moment prolongs itself, there is comfort also toward which I reach, perhaps needlessly, in that other clause which says the medal must not be awarded twice to any one person.

But, Dr. Matthews, knowing as I do the greatness of the honor, and knowing also at first hand much of human weakness, I see no happiness in this business except by regarding this award as the Institute's comment upon the intentions of the recipient and the seeming direction of his efforts, rather than upon their results, and in accepting it not as a record but as a stimulus and an obligation.

# NORMAN THOMAS

## THE NEW DEAL AND SOCIALISM

Norman Mattoon Thomas, former Presbyterian minister, founder and former editor of "The World Tomorrow," and from 1921 to 1922 an associate editor on "The Nation," was the Socialist Party's candidate for the Presidency in 1928 and 1932. He was born in Marion, Ohio, on November 20, 1884, graduated at Princeton in 1905 (during Woodrow Wilson's headship of that University) and from Union Theological Seminary in 1911. He preached in New York from 1911 to 1918 and did not actually leave the ministry until 1931. As a leader in the Socialist Party and as a speaker, writer and editor on subjects connected with American Socialism, he is widely known. The address printed here was delivered over the Columbia Broadcasting System on February 2, 1936. It is a commentary on New Deal policies and Socialism and in a sense a reply to the addresses of Smith and Robinson. The speech is included by permission.

THE AIR rings, the newspapers are filled with the politics of bedlam. There are still around 10,000,000 unemployed in the United States. Re-employment lags behind the increase of production, and the increase of money wages in industry lags behind both. The burden of debt piles higher and higher. The world, and America with it, drifts toward a new war of inconceivable horror—war from which we shall not be delivered by spending out of our poverty more than a billion dollars a year on naval and military preparations without so much as squarely facing the issue: What are we protecting and how shall we protect it?

In this situation the leaders of our two major political parties have begun speaking, or rather shouting. And what do they say? First, President Roosevelt makes a fighting speech to Congress and the nation defending the record he has made, but proposing no new program. Scarcely has he finished his speech when the AAA decision of the Supreme Court and the

enactment of the bonus legislation by Congress compel him to seek new laws and new taxes.

Then Mr. Roosevelt's one-time dearest political friend and sponsor, Alfred E. Smith, rushes to the fray. This erstwhile man of the people chooses a dinner of the Liberty League at which to proclaim the religion of Constitutional worship, favorable incidental mention of the Holy Bible, Washington as the nation's capital and the stars and stripes forever.

It was attended, the newspapers tell us, by twelve du Ponts—twelve apostles, not of liberty but of big business and the profits of war and preparation for war. Indeed, the record of Mr. Smith's new friends shows that that organization is as much entitled to the name Liberty League as was the disease commonly known as German measles to be called liberty measles in the hysteria of war.

Mr. Smith was promptly answered in a speech read, if not written, by Senator Robinson, who is the close political and personal friend of the utility magnate, Harvey Crouch, and the protector of the plantation system which in his own State is now answering the demand of the exploited share-croppers by wholesale evictions and organized terror. On this subject Senator Robinson and other defenders of the New Deal preserve a profound silence.

Then the Governor of Georgia jumped into the fray, along with an oil baron and Huey Long's share-the-wealth clergyman, to exploit race and sectional prejudice in the name of States' Rights. These all are Democrats.

Meanwhile the Republicans who defeated Alfred E. Smith in 1928 rise to applaud him. Ex-President Hoover, rejuvenated by the skillful services of a new ghost writer, denounces Mr. Roosevelt's administration and proposes a plan of farm relief quite similar to Roosevelt's substitute for AAA.

Between him and the States' Rights Senator Borah, who still believes that the country can be saved by the simple device of trying to smash monopoly, there is as deep a gulf fixed as there is in the Democratic party. Alf Landon floats somewhere in that gulf.

Yet basically beneath all the alarms and confusion these worthy warriors, happy and unhappy, are acting upon a com-

mon assumption—an assumption which is dangerously false. All of them are assuming the durability of the profit system, the security of a capitalist nationalist system in which our highest loyalties are to the principle of private profit and to the political power of an absolute jingoistic nationalist state. They assume that prosperity is coming back again to stay for a while.

Mr. Roosevelt and his followers assume that prosperity is coming back because of the New Deal. Al Smith and the rest of Roosevelt's assorted critics assume that it is in spite of the New Deal and perhaps because of the Supreme Court. Mr. Hoover plaintively protests that the catastrophic depression of January-February, 1933, was due merely to the shudders of the body politic anticipating the economic horrors of the New Deal.

#### THE NEW DEAL NOT SOCIALISM

All of these leaders or would-be leaders out of our wilderness, however they may abuse one another, however loosely they may fling around the charge of Socialism or Communism—the two are not the same—still accept the basic institutions and loyalties of the present system. A true Socialist is resolved to replace that system.

As a Socialist, I view the Smith-Roosevelt controversy with complete impartiality. I am little concerned to point out the inconsistencies in Al Smith's record, or to remind him that in 1924 and 1928, when I happened to be the Socialist candidate for high office against him, more than one of his close political friends came to me to urge me as a Socialist not to attack him too severely since he really stood for so many of the things that Socialists and other progressive workers wanted.

I am entirely willing to grant that Mr. Roosevelt did not carry out the Democratic platform of 1932. Could Mr. Smith have done it? As for myself, I much prefer the company in which Mr. Smith put me in his Liberty League speech to the company in which he put himself at that dinner.

But I am concerned to point out how false is the charge that Roosevelt and the New Deal represent Socialism. What is at stake is not prestige or sentimental devotion to a particular

name. What is at stake is a clear understanding of the issues on which the peace and prosperity of generations—perhaps of centuries—depend. A nation which misunderstands it is a nation which weakens its defense against the coming of war and fascism.

But, some of you will say, isn't it true, as Alfred E. Smith and a host of others before him have charged, that Roosevelt carried out most of the demands of the Socialist platform?

This charge is by no means peculiar to Mr. Smith. Only today over the radio I am told that a Republican speaker alleged that Norman Thomas rather than Franklin D. Roosevelt has been President of the United States. I deny the allegation and defy the allegator and I suspect I have Mr. Roosevelt's support in this denial. Matthew Woll, leader of the forces of reaction in the American Federation of Labor, is among the latest to make the same sort of charge.

Emphatically, Mr. Roosevelt did not carry out the Socialist platform, unless he carried it out on a stretcher. What is true is that when Mr. Roosevelt took office he had to act vigorously.

He looked at the Democratic platform and he found no line on which he could act. It was all very well to pledge support to sound money, but there wasn't any money. Mr. Roosevelt gave a hasty glance at the Republican platform, or perhaps he merely contented himself by noting its musty smell. Then, perhaps, he did look at the Socialist platform. He needed ideas and there was nowhere else to look.

We had demanded Federal relief for unemployment. Hence any attempts Mr. Roosevelt made at Federal relief could perhaps be called by his enemies an imitation of the Socialist platform. It was an extraordinarily poor imitation. We demanded Federal unemployment insurance. Hence any attempt to Federal security legislation could be regarded as an imitation of the Socialist platform. It was an amazingly bad imitation.

If we were in swimming and if Mr. Roosevelt's brain trust stole our clothes, it's a pity they didn't steal more of them and put them on more carefully. It would have been a more decent performance.

As a matter of fact, the American people on March 4, 1933,

weren't in swimming. They were all caught in a blizzard. Mr. Hoover had us sitting still waiting for death or divine deliverance from around the corner, or a miraculous clearing of the storm. Mr. Roosevelt started us running. To be sure, we ran nowhere in particular, but we ran hard enough to keep the blood circulating and so did not perish from freezing. Under his program we accomplished the extraordinary feat of running in several different directions at once. And that's not socialism.

Indeed, at various times Mr. Roosevelt has taken particular and rather unnecessary pains to explain that he was not a Socialist, that he was trying to support the profit system, which by the way, he defined incorrectly, and in his last message to Congress his attack was not upon the profit system but on the sins of big business.

His slogan was not the Socialist cry: "Workers of the world, workers with hand and brain, in town and country, unite!" His cry was: "Workers and small stockholders unite! Clean up Wall Street!" That cry is at least as old as Andrew Jackson.

What Mr. Roosevelt and his brain trust and practical political advisers did to such of the Socialist immediate demands as he copied at all merely illustrate the principle that if you want a child brought up right you would better leave the child with his parents and not farm him out to strangers. Time fails me to illustrate this point by a detailed examination of the Roosevelt emergency legislation.

Some of it was good reformism, but there is nothing Socialist about trying to regulate or reform Wall Street. Socialism wants to abolish the system of which Wall Street is an appropriate expression. There is nothing Socialist about trying to break up great holding companies. We Socialists would prefer to acquire holding companies in order to socialize the utilities now subject to them.

There was no Socialism at all about taking over all the banks which fell in Uncle Sam's lap, putting them on their feet again, and turning them back to the bankers to see if they can bring them once more to ruin. There was no Socialism at all about putting in a coördinator to see if he could make the bankrupt

railroad systems profitable so they would be more expensive for the government to acquire as soon as the government, even a Republican party government, under capitalism must.

Mr. Roosevelt torpedoed the London Economic Conference; he went blindly rushing in to a big army and navy program; he maintained, as he still maintains, an Ambassador in Cuba who, as the agent of American financial interests, supports the brutal reaction in Cuba; professing friendship for China, he blithely supported a silver purchase policy, of no meaning for America except the enrichment of silver mine owners, which nearly ruined the Chinese Government in the face of Japanese imperialism. These things which Al Smith or Alf Landon might also have done are anything but Socialist.

Mr. Smith presumably feels that the President's Security Bill, so-called, was socialism. Let us see. We Socialists have long advocated unemployment insurance or unemployment indemnity by which honest men who cannot find work are indemnified by a society so brutal or so stupid that it denies them the opportunity to work. This insurance or indemnification should be on a prearranged basis which will take account of the size of the family. It should be Federal because only the national government can act uniformly, consistently and effectively.

What did Mr. Roosevelt give us? In the name of security, he gave us a bill where in order to get security the unemployed worker will first have to get a job, then lose a job. He will have to be sure that he gets the job and loses the job in a state which has an unemployment insurance law.

He will then have to be sure that the state which has the law will have the funds and the zeal to get the money to fulfill the terms of the law. This will largely depend upon whether it proves to be practical and constitutional for the Federal Government to collect a sufficient tax on payrolls so that 90 per cent of it when rebated to employers to turn over to the state offices will be sufficient to give some kind of security to those who are unemployed!

The whole proceeding is so complicated, the danger of forty-eight competing state laws—competing by the way for mini-

mum not for maximum benefits—is so dangerous that the President's bill can justly be called an in-Security bill.

If Mr. Smith means that the program of public works either under PWA or WPA is Socialist, again he is mistaken. We do not tolerate the standards of pay set on much WPA work—\$19 a month, for instance, in some states in the South. We do insist not upon talk but upon action to re-house the third of America which lives in houses unfit for human habitation given the present state of the mechanic arts in a nation of builders.

The administration, having spent billions of words, not dollars, on housing with little result, is now turning the job over to private mortgage companies. Would not Al Smith or Alf Landon do the same?

The one outstanding act of the administration that Socialists applaud is, of course, the Tennessee Valley Authority. That of itself is not Socialism. No single measure of the sort can be Socialism by itself. But it is Socialist to the extent that it substitutes production for use for production for profit. However, it is an impossible task to correlate satisfactorily this type of production with the economic activities of a region still governed by the profit system.

It is this that I had in mind when in an extemporaneous speech I made the statement, so often misquoted or misinterpreted, to the effect that TVA had many merits, but that there was danger that it would be like a beautiful flower planted in a garden of weeds with great corporations watering the weeds.

But even if Mr. Roosevelt and the New Deal had far more closely approximated Socialist immediate demands in their legislation, they would not have been Socialists, not unless Mr. Smith is willing to argue that every reform, every attempt to curb rampant and arrogant capitalism, every attempt to do for the farmers something like what the tariff has done for business interests, is socialism.

#### THE POSSIBILITY OF FASCISM

Not only is it not Socialism, but in large degree this State capitalism, this use of bread and circuses to keep the people

quiet, is so much a necessary development of a dying social order that neither Mr. Smith nor Mr. Hoover in office in 1937 can substantially change the present picture or bring back the days of Andrew Jackson, Grover Cleveland or Calvin Coolidge.

What Roosevelt has given us, and what the Republicans cannot and will not substantially change, is not the socialism of the coöperative commonwealth. It is a State Capitalism which the Fascist demagogues of Europe have used when they came to power. The thing, Mr. Smith, that you ought to fear is not that the party of Jefferson and Jackson is marching in step with Socialists toward a Socialist goal; it is that, unwittingly, it may be marching in step with Fascists toward a Fascist goal.

It is not Moscow as a rival to Washington that you should fear, but Berlin.

I do not mean that Mr. Roosevelt himself is a Fascist or likely to become a Fascist. I credit him with as liberal intentions as Capitalism and his Democratic colleagues of the South permit. I call attention to the solemn fact that in spite of his circumspect liberalism, repression, the denial of civil liberty, a Fascist kind of military law, stark terrorism have been increasing under Democratic governors for the most part—in Indiana, Florida, Georgia, Alabama, Arkansas and, of course, in California, where Mr. Roosevelt did not even come to the aid of an ex-Socialist, Upton Sinclair, against the candidate of the reactionaries.

I repeat that what Mr. Roosevelt has given us is State Capitalism; that is to say, a system under which the state steps in to regulate and in many cases to own, not for the purpose of maintaining in so far as may be possible the profit system with its immense rewards of private ownership and its grossly unfair division of the national income.

Today Mr. Roosevelt does not want Fascism; Mr. Hoover does not want Fascism; not even Mr. Smith and his friends of the Liberty League want Fascism. The last-named gentlemen want an impossible thing: the return to the unchecked private monopoly power of the Coolidge epoch.

All the gentlemen whom I have named want somehow to keep the profit system. Socialism means to abolish that sys-

tem. Those who want to keep it will soon find that out of war or out of the fresh economic collapse inevitable when business prosperity is so spotty, so temporary, so insecure as it is today, will come the confusion to which Capitalism's final answer must be the Fascist dictator.

In America that dictator will probably not call himself Fascist. He, like Mr. Roosevelt in his address to Congress, will thank God that we are not like other nations. But privately he will rejoice in the weakness of our opposition to tyranny. Under the forms of democracy we have not preserved liberty. It has not taken black shirts to make us docile.

Given the crisis of war or economic collapse and we, unless we awake, will accept dictatorship by violence to perpetuate a while longer the class division of income, we shall acknowledge the religion of the totalitarian state and become hypnotized by the emotional appeal of a blind jingoistic nationalism. Against this Fascist peril and its Siamese twin, the menace of war, there is no protection in the New Deal, no protection in the Republican party, less than no protection in the Liberty League.

Who of them all is waging a real battle even for such civil liberties and such democratic rights as ostensibly are possible in a bourgeois democracy? When Al Smith appeals to the Constitution is he thinking of the liberties of the Bill of Rights or is he thinking of the protection the Constitution has given to property?

#### SOCIALISM AND THE COMMON GOOD

As a Socialist I was no lover of NRA or AAA. NRA, at least temporarily, did give the workers some encouragement to organize, but at bottom it was an elaborate scheme for the stabilization of Capitalism under associations of industries which could regulate production in order to maintain profit. AAA was perhaps some relative help to many classes of farmers. It was no help at all to the most exploited agricultural workers and share-croppers, but rather the opposite. And it was, as indeed it had to be under Capitalism, primarily a scheme for subsidizing scarcity.

The New Deal did not say, as Socialism would have said: "Here are so many millions of American people who need to be well fed and well clothed. How much food and cotton do we require?" We should require more, not less. What Mr. Roosevelt said was: "How much food and cotton can be produced for which the exploited masses must pay a higher price?"

This was primarily not the fault of AAA. It was the fault of the Capitalist System which Roosevelt and Smith alike accept; that system which makes private profit its god, which uses planning, in so far as it uses planning at all, to stabilize and maintain the profits of private owners, not the well-being of the masses. In the last analysis the profit system inevitably depends upon relative scarcity. Without this relative scarcity there is no profit and there is no planning for abundance which accepts the kingship of private profit.

When the world went in for great machinery operated by power, it went in for specialization and integration of work. It doomed the old order of the pioneers. The one chance of using machinery for life, not death, is that we should plan to use it for the common good. There is no planned production for use rather than for the private profit of an owning class which does not involve social ownership. This is the gospel of Socialism.

We can have abundance. In 1929, according to the Brookings Institution—and that, remember, was our most prosperous year—a decent use of our capacity to produce would have enabled us to raise the income of the 16,400,000 families with less than \$2,000 a year to that modest level without even cutting any at the top.

Instead, without any interference from workers, without any pressure from agitators, the Capitalist System so dear to Al Smith and his Liberty League friends went into a nose-spin. The earned income dropped from \$83,000,000,000 to something like \$38,000,000,000 in 1932, and the temporary recovery, of which the New Deal administration boasts, has probably not yet raised that income to the \$50,000,000,000 level. It has, moreover, burdened us with an intolerable load of debt.

What we must have is a society where we can use our natural resources and machinery so that the children of the sharecroppers who raise cotton will no longer lack the cotton necessary for underclothes. What we must have is a society which can use our resources and our mechanical skill so that the children of builders will not live in shacks and slums.

It is not that Socialists want less private property. We want more private property in the good things of life. We do not mean to take the carpenter's kit away from the carpenter, or Fritz Kreisler's violin away from Fritz Kreisler, or the home or farm in which any man lives and works away from him.

We do intend to end private landlordism and to take the great natural resources—oil, copper, coal, iron; the great public utilities, power, transportation; the banking system, the distributive agencies like the dairy trust, the basic monopolies and essential manufacturing enterprises out of the hands of private owners, most of them absentee owners, for whose profits workers with hand and brain are alike exploited. And we intend to put these things into the hands of society.

With all the handicaps of capitalist loyalties, society has done a pretty fair job with schools, roads, waterworks and the like. Consumers' coöperatives have succeeded even in America. Social ownership now has a better record than holding company collectivism has made.

We intend to make this change to social ownership in orderly fashion. We are even willing to offer moderate compensation to those who will come along peacefully. We will accompany that compensation by taxation. We can only avert fresh economic collapse by the road of crazy inflation or cruel deflation by an orderly process of taxing wealth in private hands, by a graduated tax, approaching expropriation of unearned millions, in order to wipe out debt and to help in the socialization of industry.

We do not mean to turn socialized industries over to political bureaucrats, to Socialist Jim Farleys, so to speak. The adjective doesn't redeem the noun. For instance, we intend that a socialized steel industry shall be managed under a directorate representing the workers, including, of course, the technicians in that industry, and the consumers.

We intend to put over these socialized industries a national economic planning council, a kind of council of war in the Holy War against poverty. This council will represent different branches of agricultural and industrial production. It will carry out the large policies for social well-being that the Congress may determine.

It can do it without conscription and without rationing our people. We ought not to pay the price Russia has paid because we are far more industrially advanced than was Russia and should learn from Russia's mistakes as well as her successes.

#### NATIONAL AND INTERNATIONAL PLANNING

Many of the functions of this national planning board will have to become genuinely international or world-wide if we are to preserve peace. It is only in a family of nations where there is something like fair play in respect to the allocation of raw materials and in the establishment of industrial standards for workers that we can hope for lasting peace. It is this peace that we seek.

Our goal, Mr. Smith, is true democracy. It is we who lead in the fight for liberty and justice which you in recent years have sadly ignored. It is we who seek to make freedom and democracy constitutional by advocating a Workers Rights' Amendment in the interest of farmers, workers and consumers, giving to Congress power to adopt all needful social and economic legislation, but leaving to the courts their present power to help protect civil and religious liberty.

Our present judicial power of legislation is as undemocratic as it is in the long run dangerous to peace. Remember the Dred Scott decision! Congress rather than the States must act because these issues are national. The religion of the Constitution with the Supreme Court as the high priests and the Liberty League as its preacher will never satisfy human hunger for freedom, peace and plenty.

The Constitution was made for man and not man for the Constitution. We Socialists seek now its orderly amendment. We seek now genuine social security, real unemployment insurance. We seek now a policy which will make it a little

harder for American business interests to involve us in war as a result of a mad chase after the profits of war.

These, gentlemen who quarrel over the way to save Capitalism, are the things of our immediate desire. But deepest of all is our desire for a federation of coöperative commonwealths. Some of you may like this far less than you like the New Deal, but will you not agree that it is not the New Deal?

You said, Mr. Smith, in a peroration worthy of your old enemy, William Randolph Hearst, that there can be only one victory, of the Constitution.

And this is our reply: There is only one victory worth the seeking by the heirs of the American Revolution. It is the victory of a fellowship of free men, using government as their servant, to harness our marvelous machinery for abundance, not poverty; peace, not war; freedom, not exploitation.

This is the victory in which alone is practicable deliverance from the house of our bondage. This is the victory to which we dedicate ourselves.

# GEORGE EDGAR VINCENT

## THE DOCTOR AND THE CHANGING ORDER

Dr. George E. Vincent, president of the Rockefeller Foundation from 1917 to 1929, was born in 1864, was for many years professor and dean at the University of Chicago, and was president of the University of Minnesota from 1911 to 1917. As head of the Rockefeller Foundation he has done much to influence the relation of the physician to society, a subject which he discusses in the following address, delivered at the seventy-ninth anniversary meeting of the New York Academy of Medicine, November 19, 1925. Another speech by Dr. Vincent is printed in Volume III.

INDIVIDUALISTS have been described as people who cannot see the woods for the trees, and collectivists as folk for whom the forest obscures the single oaks, hemlocks and beeches. The former think of life in terms of personal aims, rights and duties; the latter seem to regard community or nation or mankind as great organic entities of which men and women are hardly more than constituent elements, cells in a social body. The individualist naturally believes in freedom of the will; the collectivist tends toward determinism. Each theory pushed to an extreme deals with an abstraction, on the one hand an isolated person, on the other an impersonal unity. Both views have value; they are ways of approach to the bewildering complexity of life; they help one to analyze and simplify.

Thus doctors may be looked at usefully either as individuals living their own personal lives, increasing their knowledge and power, demanding their rights, protecting their privileges, helping their fellows, or they may be regarded as servants of society, controlled, subordinated, even exploited for the common wel-

Reprinted by permission of Dr. Vincent, from *The Survey*.

fare. For obvious reasons doctors have been individualists. Until recently there has been no question of their being anything but independent and self-sufficient. Their services have been intimately personal. To them the world is quite obviously peopled by separate persons; no wonder the doctors see the trees instead of the forest.

Just because of this, it is a salutary thing for physicians now and then to contemplate themselves from the social point of view. Society is a useful abstraction, a symbol for the common life, the collective interests which seem to overshadow the individual, and even to use him for that other abstraction, the general good. For the purposes of this article society will be personified and credited with aims, purposes and plans. Even individual ambitions, privileges and rights will be treated as means of social control. So much by way of fair warning.

Society in order to keep its many activities going must recruit its servants. Careers of many kinds are offered to youth. Only rarely is there resort to conscription. Enlistment is for the most part voluntary. This means that society must offer the inducements which will attract candidates, persuade them to prepare for a given kind of work and then keep them reasonably contented and efficient. It would be a mistake to suppose that society does this with any clear consciousness of what is going on. But in a somewhat hit-or-miss fashion the recruiting gets done.

What are the means by which society draws youths and maidens into the career of medicine? Sometimes family tradition can be utilized. But these are the standard inducements: prestige and social esteem; access to sound training; consciousness of knowledge and skill; adequate income with provisions for old age; a sense of initiative and freedom; recognition for adding to the sum of science and technique; protection against the competition of incompetent or unscrupulous physicians and of charlatans and fanatics; a feeling of professional comradeship and loyalty; an idealism which gives high, human significance to the doctor's part in the social order.

Societies vary widely in the actual validity of these items of appeal. Sometimes doctors think that they are the victims of false representations. So, too, the character of a medical

profession is determined by the relative emphasis which society puts upon the different inducements. In a community which sets great store by wealth even medical success is likely to be measured by economic status. Perhaps this is inevitable because the same society is appealing at the same time for recruits for many other professions and vocations. The best ability flows to the careers which society makes on the whole the most attractive.

The promises and rewards which society holds out to doctors have a selective effect. They appeal differently to different capacities and ambitions. In this way types are created. Some men prefer the laboratory to the limousine; others are drawn to salaried posts in institutional services; still others are lured by the high adventure of surgery; the many find their best reward in skilled and sympathetic daily care of sick people; not a few are turning to the task of protecting individuals and groups against disease.

After society has caught and trained its doctors it expects certain things from them; professional competence, for example. It calls upon them to keep up with the growth of knowledge and the increase of skill, to have access to useful means of finding out what's wrong with a sick person and of helping to set it right. Society counts also on getting sound advice about personal hygiene; it looks to doctors for understanding, individual attention and a genuinely human sympathy. It asks for a finer spirit than it requires of any other of its servants, with the sole exception of its religious leaders.

So long as society led the simple life of countryside, village and small town with diversified agriculture, cottage industries, local markets, slow transport, leisurely spread of news, and so long as each doctor knew almost all there was to know of medicine and its arts, the relation of physicians to their communities presented few problems. Like the lawyer, merchant, and school teacher, the doctor was an individualist, a self-sufficient, independent unit in close and neighborly contact with his patients.

But society no sooner settles down to a routine of custom and habit than something happens. A conqueror invades the land, or more disturbing still, some one has a new upheaving

idea which cannot be suppressed. Then the game of adjustment begins all over again. In prosperous, pioneer lands this is called progress; in older, disillusioned societies people are not sure that it is anything more than change. But whether it be headed straight for a millennium, or started on a slowly recurring spiral, or only doing another lap on a vicious circle, it disturbs the peace, raises problems and worst of all compels a few people to think, or at least to "rearrange their prejudices."

The men who invented steam engines, spinning jennies, power looms, cotton gins, railways, ocean liners; their successors who applied electricity and devised internal combustion engines simply played havoc with the good old times. To be sure the natural philosophers were at the bottom of the mischief with their discoveries in mechanics, chemistry and electricity. The medical scientists, by accumulating stores of new knowledge and making exciting discoveries, also helped to bring in and complicate a new order.

To describe in any detail the present state of society would be merely to offer what *Punch* calls "glimpses of the obvious." A chiefly urban, minutely specialized and highly interdependent, industrial, commercial and social system made up of many groups of varying economic status, racial origins, education and religion confronts the modern doctor with new problems. His former individualistic neighbors the merchant, banker, manufacturer, even lawyer and teacher have been drawn into organizations and have largely lost their independence as self-sufficing units. Must the doctor, who can now master only a part of the vast total of medical knowledge and skill, follow in their footsteps?

The first impulse is to protest against the idea that medicine is a mechanical process, or a business, that it can be organized like a factory or a department store. To suggest such a thing is, it would seem, to ignore the personal, individual relationship which is a condition of genuinely effective medical care and counsel. It is this very conflict between the call for teamwork on the one hand and the demand for human insight and sympathy on the other that creates a perplexing problem.

But, it may be asked, is there, as a matter of fact, a need for

closer coöperation among doctors? Which may be answered by another query: can they escape the law of specialization and integration which Herbert Spencer elaborated so remorselessly in his ponderous polysyllables?

It is at this point that the familiar procession of facts should pass across the scene: the enormous increase in scientific knowledge and in technical skill, the inevitable dividing up of these resources, the entrance of the consultant, the development of hospitals, dispensaries and diagnostic laboratories, the appearance of group medicine, the opening of pay clinics, the growth of industrial medical services, the progress of public health with its salaried officers and nurses, foreign systems of health insurance, and here and there the shameless rise of actual state medicine. It is estimated that eight to ten million patients receive attention yearly in the dispensaries of the United States.

Society has, it seems, been asking for things from the doctors: closer coöperation in focusing specialized knowledge and skill on the sick individual, more economical common use of facilities, some better way of distributing the burden of sickness costs over large numbers of individuals or families, and loyal aid in protecting whole groups from disease. For the rich and well-to-do and for the very poor in large towns and cities society has managed not too badly, but for self-respecting folk of moderate or limited means the job has so far been pretty generally bungled.

The pageant of progress I have reviewed may easily be misinterpreted so far as organization of medical service goes. Nearly ten per cent of the active doctors of the United States are full-time salaried officers in army, navy, public health services, industrial establishments and public institutions. Only to a limited extent do they work as groups. For the most part they are individual practitioners. Much of the service of dispensaries, especially of the smaller ones, is carried on by doctors who work almost independently.

Although the sick benefits of lodges, benevolent orders, labor unions, the voluntary health insurance schemes of Denmark and Norway and the compulsory systems of Germany and Great Britain cover very large groups of people, the medical service is rendered by contract or panel doctors the vast major-

ity of whom are general practitioners working in their own offices. There is little or nothing in the form of clinics. The medical care is probably on the whole inadequate and certainly unorganized. Commercial insurance companies which issue policies against sickness do not for obvious reasons offer organized medical service to their patrons. These persons resort to practitioners of their own choosing.

Only, then, in university clinics, in well-developed hospitals, dispensaries and pay clinics, in true group practice, in health centers, is there to be found genuinely organized medicine, i.e., the teamwork of skillful diagnosticians with well-trained specialists backed by efficient laboratory, operating and treatment facilities. However with respect to these agencies serious question is raised. Are they not mechanizing medicine, eliminating the personal factor and the human relation?

Much the same query has been made about schools and universities. Have not the virtues of the little red schoolhouse and the small arts college been all but lost in our modern organized, graded, highly equipped instruction machines? Perhaps; but no one proposes to restore the one-room rural school or even Mark Hopkins' log. The plea is for smaller classes and closer relations between teacher and pupils. The specialization and organization are accepted as unescapable consequences of social changes.

As society notes what is going on, it is reminded now and then that the new ways of doing things may affect the recruiting for the career of medicine. If the attractions already enumerated are radically lowered may not the best abilities hesitate—even turn to other vocations? The hospital associations of Cuba offer an illustration. Nearly a quarter-million of individuals contribute a dollar and a half or two dollars a month to five societies which in turn guarantee medical attention and, if need be, unlimited care in large modern hospitals equipped with every facility for diagnosis and treatment, and manned by specialized staffs. Society seems to have managed this well. Costs are distributed so that no individual bears a crippling or even serious burden. If he falls ill he is sure of excellent care.

But can he count on this same quality of service for his children and grandchildren? The Cuban doctors complain that the

hospital associations drive hard bargains. They so nearly monopolize the best paying part of the population that, with the exception of a few outstanding specialists, no capable and ambitious medical man can maintain himself independently. He is forced to accept a full or part-time salaried post. The scale of pay is not high. No special allowances are made for advanced study abroad; research is not signally distinguished. The doctor's sense of initiative and freedom is narrowed. Will the best young Cubans go in for medical careers in these circumstances? If they do not, society will in time, perhaps, modify the conditions, increasing the attractions and removing the obstacles. Who knows?

Such organization of medicine as has begun to appear is found almost always only in large cities and big towns. The smaller town and village hospitals are little more than houses in which individual doctors care for their private patients and carry a part of the free service for the sick poor. There is, to be sure, a little specialization, too often of a rather superficial sort, but almost no teamwork worthy of the name. Even in the large cities only a small part of the profession is really related to hospital, dispensary and other grouped staffs. In the country at large individualism and independence prevail. In village and countryside the isolated practitioner is the only resident type. So there is no stampede for organization in medicine.

The allusion to the rural doctor had to be. No discussion of medical organization can leave him unnoticed. What will society do to keep him on the job? Give him a cheaper and shorter training? Sound the slogan: "Poor doctors for poor people?" Subsidize him with free office room and an annual retainer? Or try to make farming and rural life more attractive not only to the doctor but to the farmer and his family? For after all, medical care and protection of health is only a part of a much bigger thing, the whole agricultural question.

Or is organization going gradually to invade the countryside, set up visiting nurses as medical outposts with first aid stations based on staffed hospitals in the nearest towns which in turn will call on regional medical centers in cities small or large? Good roads and motor cars have made a radical difference. Has not the doctor's call and ambulance radius been enormously

increased? And now the public motor snow plow makes its début. The unfortunate rural doctors of the North will soon find that even snow drifts are no longer a protection against the enterprise of their urban colleagues. But all this seems rather too systematic and comprehensive. Society shies at schemes so academic. Muddling through is much easier and safer than making far-reaching plans on a grand scale.

Nor can the general practitioner be denied a paragraph in this interrogatory discourse. His gradual disappearance has been predicted. "How," it is asked, "can he survive if prestige and emoluments are going to the specialists, if sanitarians and hygienists keep cutting down the output of patients, if free and pay clinics increasingly offer the competition of organized service, if hospital connections continue to be limited and elusive, if the public fails to discriminate between fairly well-trained men and obscurantist healers?" The outlook may not seem too bright but, as we have seen, the family doctor is still the overwhelmingly prevalent type both in city and country. He may not be keen about going into rural practice, but there seems to be life in the old boy yet.

Who knows? Society may gradually induce him to shift his attitude. Perhaps he will get connections with diagnostic centers, group himself with fellow doctors about common laboratory and treatment facilities, go in for keeping people well through health examinations and advice about personal hygiene—in short get himself more organically related to society's medical services and come to think of prevention more than of cure. But this begins to have a familiar sound. The main point is this: society has been some time making the general practitioner, has found him highly useful and is not likely to give him up if he can be gradually modified somewhat to fit new demands.

But this talk about society may be getting wearisome. What is this potent entity? Has it the capacity to appreciate science, to maintain discriminating standards, to recognize and follow genuine experts, or is it credulous, careless and easily misled? Is there any truth in the cynical assertions that democracy is "the cult of incompetence," "the passionate pursuit of the second-rate"? Well, society is only another name for all of us.

Each of us finds within him the mythical "average man," and can hazard an answer on his own account.

There are, it is true, plenty of discouraging things that come to mind. But who will say that we shall not in time extend our present rational confidence in physicists, chemists and engineers to include biologists, medical laboratory scientists, clinicians, sanitarians and hygienists, and, what is more, be guided by them in our ways of life and conduct? The Hollanders and the Scandinavians, to mention only the more conspicuous, have set reassuring examples. Signs of progress are not lacking in our own land, in spite of the prevalence of the quack remedies, and the existence of ignorant or unscrupulous doctors, embattled anti-vaccinationists, quaint deniers of disease, wonder-working healers and erudite foes of evolution.

As a Broadway play must have a happy ending so an American article must close upon a helpful, hopeful note, no matter what the baffling complexity of the subject or the calamitous incompetence of the writer. It is not easy to violate an established tradition. One is almost tempted to fall back upon the panacea for all our ills and reaffirm confidence in Education. But the easy way must be avoided.

"The old order changeth." That is a law of life. To this changing order all, even doctors, must adapt themselves. And this adaptation takes place not through large, comprehensive, elaborate schemes of reform but by piecemeal, here and there, now and then, by happy chance, by trial and error, opportunistically, unconsciously. Academies of medicine can do something, but probably not much. The larger the number of minds that see the trend of things, the better the chances of gradual adjustment. So studies, experiments, demonstrations, discussion, all play a part and are to be welcomed.

To sum up; it looks as if society means to insist upon a more efficient organization of medical service for all groups of people, upon distribution of the costs of sickness over large numbers of families and individuals, and upon making prevention of disease a controlling purpose. Just how these ends will be gained only a very wise or very foolish man would venture to predict. One thing seems fairly certain: in the end society will have its way.

# EDWARD DOUGLAS WHITE

## THE SUPREME COURT

This speech was delivered in response to the toast to the Supreme Court proposed by Hampton L. Carson at the annual dinner of the American Bar Association on October 22, 1914. Chief Justice White was born in the Parish of Lafourche, Louisiana, in 1845 and died 1921. He became an associate justice of the Supreme Court of the United States in 1894, and Chief Justice in 1910.

To respond to a toast has always seemed to me submitting one's self to a toast because of the discomfort by anticipation, the misery in performance and the dissatisfaction on account of the things unsaid since only afterwards thought of. In addition, I have refrained since becoming Chief Justice from accepting invitations to make after-dinner speeches because of a tradition that that official was never to be expected to reply to an after-dinner toast. The warmth of the request of the committee in this instance compelled me to consider the reason of the tradition, and I have become convinced that it is not far to seek, since, putting aside the impossible suggestion that there was danger in the Chief Justice agreeing to make a speech after dinner, it is apparent that the rule rests alone upon the assumption that if he said something, he might do that which he was not expected to do, and if he said nothing, he might fail to do that which ought to have been done.

But be this as it may, after overcoming the personal disinclination because of a feeling that to accept the invitation would afford an opportunity to avail of that so infrequently relied upon constitutional provision, the equal protection of the laws, by turning the tables on my brethren of the profession and compelling them to be listeners, no difficulty was experienced in departing in this instance from the tradition, since in no possible view could it have application to the Chief Jus-

tice speaking in his own household and to members of his own family. And where, I submit, could he be more at home than at the hospitable board of the American Bar Association, surrounded by its members, his professional brethren?

The toast is "The Supreme Court of the United States," but the eloquent words which have just been spoken by my brother Carson demonstrate that the thought underlying its proposal is not the general jurisdiction of the great tribunal which the toast names, but rather the power conferred upon that court to interpret and uphold the Constitution and to declare all acts which transcend its limitations to be void, thus sustaining the lawful authority of the nation, protecting the legitimate powers of the states and securing to all the people the enjoyment of their constitutional safeguards. But these dominant considerations concern not only the Supreme Court of the United States, but every court, national or state, since such power rests in every court in the land because it inheres in all judicial authority under our system of government. Availing myself, then, of the judicial duty of coming to consider that which is essential, I paraphrase the toast as one to the courts of the United States, both state and federal, whether of high or low degree, whether of extended or limited jurisdiction, all to be considered in the light of the authority which they possess and the duty which rests upon them of applying and enforcing the Constitution as the supreme law of the land against all infractions from whatever source proceeding.

Thus fixing the subject for consideration, the first thought that comes to my mind is, in view of the vastness of this power, how completely its creation or recognition and the provisions for the mode of its exercise expressed the faith of the fathers in free government and the power of a free people to perpetuate the same. I say this because the very conception of the power in and of itself was a supreme manifestation of the profound faith which was in them and because the mode provided for the exertion of the power from its simplicity accentuated and made more self-evident the abiding faith by which they were controlled. Thus, while as to practically every other power created, checks and balances of various kinds were resorted to to limit the mode of the exercise of the power or to give sanction

to it when exerted, as to the power to interpret and enforce the Constitution, conferred upon, or recognized as existing in, judicial authority, no checks were interposed and no sanction whatever was ordained concerning its exertion, the power great as it was, therefore, in its ultimate conception being made to rest solely upon the approval of a free people.

My second thought, as I comprehensively contemplate the mode in which the judicial power has been exerted from the beginning by the courts both national and state, of all degrees of jurisdiction, is one of marvel at the devotion, the fidelity, the self-restraint and the love of country with which the power has been exerted; how rare the abuse, how infrequent the slightest semblance of ground for the belief that willful wrong was committed, that is, that there was an intentional transgression of authority. What a tribute this is to our profession—for judges and lawyers are one. Indeed, as I look at the subject and contemplate the varied methods by which judges have been selected, the frequent shortness of their tenure, the almost usual inadequacy of their compensation, the natural exultation and pride in our profession which comes to me is tempered by a sense of reverent restraint, since the thought cannot be resisted that a result so remarkable has been brought about by the dispensation of a Merciful Providence in vouchsafing the fulfillment of the promise, "As thy days, so shall thy strength be."

The third thought is, how marvelously the existence of these United States as they stand to-day a mighty people, with a national government adequate to fulfill its purposes, with state governments sufficient to preserve local autonomy, and with its millions of people all free and yet all restrained by those limitations which make men free, is due to the wisdom of the fathers in lodging the ultimate protection of the Constitution in judicial authority, and thus saving the confusion and conflict from which the destruction of our institutions would otherwise have arisen. I know not better how to make this truth obvious than by asking you to picture what would be our condition to-day if from the beginning we had been deprived of the balance-wheel which judicial interpretation has afforded to the maintenance and development of our institutions. I

know it may be suggested that this view is a mistaken one since it attributes to the exercise of judicial power beneficial results which were naturally brought about by the operation of economic and other forces; a view which, it is insisted, is demonstrated by the outbreak of the mighty conflict of the Civil War. I might well leave the contention to answer itself by the obvious disproportion between cause and effect which it embodies, for who, may I ask, would venture to suggest that because a meteor fell across the sky therefore the great laws by which the harmony and movement of the universe are maintained had no existence and produced no effect? I pause, nevertheless, for a moment to point out the misconception of the suggestion. I take it it may not be at this day doubted that the underlying controversies which brought about the Civil War existed prior to the Constitution as the result of divergent institutions or conditions and conflicting opinions which were not adjusted or harmonized when that instrument was adopted and therefore were left open for subsequent adjustment, and which, by the operation of the laws of self-interest or of conflicting conceptions of duty or even as the consequence of human passion, it became impossible to settle, and which therefore were fanned into the flames which caused that great conflagration. But neither side to that mighty controversy struggled to destroy constitutional government as they understood, but both on the contrary sought to perpetuate and preserve it as it was given them to believe it should rightfully exist. Underlying the whole struggle, therefore, on both sides, when it is dispassionately looked at, was the purpose to protect and defend free and constitutional government as it was deemed our fathers gave it. And this affords a ready explanation of how when the smoke of battle had passed away and the storm had subsided, the supremacy of our constitutional system by natural operation resumed its sway, and peace and brotherhood reigned where warfare and enmity had hitherto prevailed.

Let me illustrate. Do you recall the toymaker and his blind daughter, created by the genius of Dickens and so admirably interpreted by that great artist, Joseph Jefferson, in "Cricket on the Hearth," where with a tenderness which may not be described, mistaken though it may have been, in order to con-

ceal the poverty and misery of his surroundings, the father pictured to the blind one whom he so much loved his environment as one of prosperity and affluence? Let us listen to her as she places her hand upon his threadbare gray coat, which she deemed from his description to be of some rich fabric, and hear her question, "What color is it, father?" "What color, my child? Oh, blue—yes—yes, invisible blue." And now with the mists of the conflict of the Civil War cleared from my vision, as my eyes fall with tender reverence upon that thin gray line, lo, the invisible has become the visible and the Blue and the Gray, thank God, are one. See it again illustrated in that flag which stands behind me. I can recollect the day when to me it was but the emblem of darkness, of misery, of suffering, of despair and despotism. But ah! in the clarified vision in which it is now given to me to see it, as I look upon its azure field it is glorious not only with the north star's steady light, but is resplendent with the luster of the southern cross; and as I contemplate its stripes, they serve to mark the broad way for the advance of a mighty people blessed with that plenitude of liberty tempered with justice and self-restraint essential to the protection of the rights of all. And thus again I see, although the Stars and Bars have faded away forever, the fundamental aspirations which they symbolized find their imperishable existence in the Stars and Stripes.

Great as is the pride which the considerations just stated afford us as members of our profession, it surely will be the pride which goeth before a fall if our free government should suffer detriment because of our failure to remember and earnestly devote ourselves to the duty which rests upon us concerning it. It is indeed a great duty when the consequences which may result from a failure to perform it are considered, consequences which will be fruitful in misery not only for our own countrymen but to mankind generally; for who can foretell the obscuring of the light of liberty throughout the world which would necessarily result from a failure of our constitutional system? Mark you, I am not speaking pessimistically and am not intimating, because now and again some doctrines are boldly asserted and seem to meet with approval which by their mere statement are so destructive of representative

government as to give rise to a sense of despair or at least to cause the foreboding that they foreshadow the possibility of complete extinction of our government by the disregard of the essential truths upon which it must rest, that I am of the opinion that such a result will be accomplished. I say this because the things I refer to, all of them, I think, are but local and ephemeral and they serve to demonstrate one of the wonderful advantages of our system of local government, since it affords a means for confining and localizing the maladies which disappear long before there is the slightest danger of their becoming operative and effective within the great body of the people. Indeed, I cannot conceive the thought that whatever betide and however general might become a popular aberration, the consequence would be that the light of constitutional liberty would go out forever, since there is given me the faith to believe that however complete might be a conflagration which destroyed the noble edifice of our Constitution, as long as the traditions of the American lawyer survived they would suffice to afford the energy and insight from the exertion of which a new and enduring edifice of liberty and representative government would arise. But think of the sorrow and the suffering to be endured while such process of rehabilitation was being carried out.

But the question naturally comes, what are the dangers which threaten us and how is the duty to be performed of guarding against them?

In the first place, there is great danger, it seems to me, to arise from the constant habit which prevails where anything is opposed or objected to, of resorting without rhyme or reason to the Constitution as a means of preventing its accomplishment, thus creating the general impression that the Constitution is but a barrier to progress instead of being the broad highway through which alone true progress may be enjoyed. Upon whom does the duty more clearly rest to modify and correct this evil than upon the members of our profession?

In the second place, it seems to me one of the greatest evils which threaten us is, as it were, a forgetfulness of our system, a growing tendency to suppose that every wrong which exists despite the system and which would be many times worse if

the system did not exist is attributable to it and therefore that the Constitution should be disregarded or overthrown. This rests alone upon a forgetfulness of the considerations which underlie the Constitution and of the immortal truths which they embody. Why, I recollect but a few years ago meeting a distinguished public man who had just been delivering in one of our great universities a series of lectures on our constitutional system of government. He said to me: "I was surprised to have one of my listeners, a student far advanced in his university life, say, 'It gave me so much pleasure to hear your lectures for they were the first kindly words I have heard about our government since the commencement of my university career.'" I recollect myself a few years ago being in the atmosphere of a university and feeling that there existed among the student body either a profound apathy or a great misapprehension as to our government, the division of powers which it created and the limitations which it embraced; and in mentioning this impression to one quite familiar with the environment I was surprised to hear him say: "Oh yes, you are quite right, that is the impression which here prevails. Indeed I think it comes from the state of mind of the teaching body." Doubtless in a large measure this state of mind has imperceptibly and gradually grown from the evil habit which I just a while ago referred to of invoking the Constitution in such a way as to create the profound impression that its restraints were but limitations on true development and were therefore the means of preventing the onward and upward march of our race. Who can better gradually rectify this condition of mind than the members of our profession if only they determine with increased devotion to give themselves up to the correction of errors and wrongs which may exist despite the principles involved in our constitutional government and thus convince that true progress lies in fructifying and making them operative and not by destroying them?

In the third place, it seems to me that there is a tendency, not so great now as it was a few years ago, as admirably illustrated by efficient work in some respects done by the American Bar Association, to be lukewarm concerning attacks upon fundamental and essential constitutional provisions, to take it for

granted that they may not be overthrown, when on the contrary the plain duty is to be alert, to be insistent, to be devoted, at all times and on all occasions to defend against the least encroachment, to point out the dangers which must come and thus to keep ever vividly present and quickened in the minds of all the people the necessity of adhering to and upholding the Constitution if they would preserve the heritage of liberty which they have received.

At the outset, seeking to express the true resonance of the toast to which I was called upon to respond, I ventured to modify its form of statement so as to make it all-embracing and thus virtually cause it to be but the expression naturally to be expected from this body of lawyers. Now as I come to a conclusion may I be permitted to strike a chord for the purpose of evoking the noble harmony which underlies the toast as I at the outset interpreted it, by proposing one to the health of the American lawyer, which includes the American judge, as Bench and Bar are one; not alone of the judges of courts of extended jurisdiction and of last resort, but of all, however limited their jurisdiction; not alone of lawyers engaged in great affairs, but of all, however narrow may be the sphere in which they move. And in thus reexpressing the toast or rather echoing it as expressed, may I not be permitted to indulge in the heartfelt aspiration that there may be given to them all a deep and reverent purpose of faithfully discharging the duties which rest upon them, to the end that our free institutions may be preserved and may be transmitted unimpaired to those who are to come.

•

# WILLIAM ALLEN WHITE

## THE COUNTRY NEWSPAPER

William Allen White was born in Emporia, Kansas, 1868, and has been editor and proprietor of the *Emporia Gazette* since 1895. His editorial writing, his novels, and his political activities have given him a nation-wide reputation. This address was delivered before the joint meeting of the American Academy and the National Institute of Arts and Letters, held in Boston, November 19, 1915.

THE country town is one of those things we have worked out for ourselves here in America. Our cities are not unlike other cities in the world; the trolley and the omnibus and the subway, the tender, hot-house millionaire and the hardy, perennial crook, are found in all cities. Class lines extend from city to city well around the globe. And American aversion to caste disappears when the American finds himself cooped in a city with a million of his fellows. But in the country town—the political unit larger than the village and smaller than the city, the town with a population between three thousand and one hundred thousand—we have built up something distinctively American. Physically, it is of its own kind; the people for the most part live in detached wooden houses, on lots with fifty feet of street frontage and from one hundred to one hundred and fifty feet in depth. Grass is the common heritage of all the children—grass and flowers. A kitchen-garden smiles in the back yard, and the service of public utilities is so cheap that in most country towns in America electricity for lighting and household power, water for the kitchen sink and the bathroom, gas for cooking, and the telephone with unlimited use may be found in every house. In the town where these lines

Copyright 1916 by the American Academy. Printed with permission of Mr. White and the Academy.

are written there are more telephones than there are houses, and as many water intakes as there are families, and more electric lights than there are men, women and children. Civilization brings its labor-saving devices to all the people of an American town. The uncivilized area is negligible, if one measures civilization by the use of the conveniences and luxuries that civilization has brought.

In the home the difference between the rich and the poor in these towns is denoted largely by the multiplication of rooms; there is no very great difference in the kinds of rooms in the houses of those who have much and those who have little. And, indeed, the economic differences are of no consequence. The average American thinks he is saving for his children and for nothing else. But if the child of the rich man and the child of the poor man meet in a common school, graduate from a common high school, and meet in the country college or in the state university—and they do associate thus in the days of their youth—there is no reason why parents should strain themselves for the children; and they do not strain themselves. They relax in their automobiles, go to the movies, inhabit the summer boarding-house in the mountains or by the sea, and hoot at the vulgarity and stupidity of those strangers who appear to be rich and to be grunting and sweating and saving and intriguing for more money, but who really are only well-to-do middle-class people.

In the American country town the race for great wealth has slackened. The traveler who sees our half dozen great cities, who goes into our industrial centers, loafs about our pleasure resorts, sees much that is significantly American. But he misses much also if he fails to realize that there are in America tens of thousands of miles of asphalted streets arched by elms, bordered by green lawns, fringed with flowers marking the procession of the seasons, and that back from these streets stand millions of houses owned by their tenants—houses of from five to ten rooms, that cost from twenty-five hundred to twenty-five thousand dollars, and that in these houses live a people neither rural nor urban, a people who have rural traditions and urban aspirations, and who are getting a rather large return from civilization for the dollars they spend. Besides the civilization

that comes to these people in pipes and on wires, they are buying civilization in the phonograph, the moving-picture, the automobile, and the fifty-cent reprint of last year's fiction success. The Woman's City Federation of Clubs is bringing what civic beauty it can lug home from Europe and the Eastern cities; the opportune death of the prominent citizen is opening playgrounds and hospitals and parks; and the country college, which has multiplied as the sands of the sea, supplements the state schools of higher learning in the work of bringing to youth opportunities for more than the common-school education.

Now, into this peculiar civilization comes that curious institution, the country newspaper. The country newspaper is the incarnation of the town spirit. The newspaper is more than the voice of the country-town spirit; the newspaper is in a measure the will of the town, and the town's character is displayed with sad realism in the town's newspapers. A newspaper is as honest as its town, is as intelligent as its town, as kind as its town, as brave as its town. And those curious phases of abnormal psychology often found in men and women, wherein a dual or multiple personality speaks, are found often in communities where many newspapers babble the many voices arising from the disorganized spirits of the place. For ten years and more the tendency in the American country town has been toward fewer newspapers. That tendency seems to show that the spirit of these communities is unifying. The disassociated personalities of the community—the wrangling bankers, the competing public utilities, the wets and the dries, the Guelfs and the Ghibellines in a score of guises that make for discord in towns—are slowly knitting into the spirit of the place. So one newspaper in the smaller communities—in communities under fifteen thousand, let us say—is becoming the town genus. And in most of the large towns—so long as they are towns and not cities—one newspaper is rising dominant and authoritative because it interprets and directs the community. The others are merely expressions of vagrant moods; they are unhushed voices that are still uncorrelated, still unbridled in the community's heart.

It is therefore the country newspaper, the one that speaks for the town, that guides and cherishes the town, that embodies the

distinctive spirit of the town, wherein one town differeth from another in glory—it is that country newspaper, which takes its color from a town and gives color back, that will engage our attention at present. That newspaper will be our vision.

Of old, in this country, the newspaper was a sort of poor relative in the commerce of a place. The newspaper required support, and the support was given somewhat in charity, more or less in return for polite blackmail, and the rest for business reasons. The editor was a tolerated person. He had to be put on the chairmanship of some important committee in every community enterprise to secure his help. In times of social or political emergency he sold stock in his newspaper company to statesmen. That was in those primeval days before corporations were controlled; so the editor's trusty job-press never let the supply of stock fall behind the demand. Those good old days were the days when the editor with the "trenchant pen" stalked to glory through libel-suits and shooting scrapes, and when most American towns were beset by a newspaper row as by a fiendish mania.

But those fine old homicidal days of the newspaper business are past, or are relegated to the less civilized parts of the land. The colonel and the major have gone gallantly to dreams of glory, perhaps carrying more buckshot with them to glory than was needed for ballast on their journey; but still they are gone, and their race has died with them. The newspaper man of to-day is of another breed. How the colonel or the major would snort in derision at the youth who pervades the country newspaper office to-day! For this young man is first of all a manufacturer! The shirt-tail full of type and the cheese-press, which in times past were held as emblems of the loathed contemporary's plant, have now grown even in country villages to little factories. The smallest offices now have their typesetting machines. The lean, sad-visaged country printer, who had tried and burned his wings in editorial flight, is no more. Instead we have a keen-eyed, dressy young man who makes eyes at the girls in the front office and can talk shows with the drummer at the best hotel or books with the high-school teacher in the boarding-house. This young man operates the typesetting machine. Generally he is exotic, frequently he is a traveler from

far countries; but he rides in the Pullman, and the clay of no highway ever stains his dainty feet. In the country town, in the factory that makes even the humblest of our country dailies, the little six- and eight-page affairs, all unknown, unhonored, and unsung, three or four and sometimes half a dozen of the smart, well-fed, nattily dressed machine-operators are hired, and the foreman—the dear old pipe-smoking, unshaven foreman who prided himself in a long line of apprentice printers, the foreman who edited copy, who wrote the telegraph heads, and ruled the reporters in the front office with an iron rod of terror, the foreman who had the power of life and death over everyone around the building but the advertising man, the foreman who spent his princely salary of fifteen dollars a week buying meals for old friends drifting through with the lazy tide of traffic between the great cities, the foreman who could boast that he once held cases on the *Sun* and knew old Dana—that foreman is gone; in his place we know the superintendent. And, alas! the superintendent is not interested in preserving the romance of a day that is past. He is not bothered by the touch of a vanished hand. When the vanished hand tries to touch the superintendent of the country newspaper office to-day a ticket to the Associated Charities' wood-yard is his dull response. The superintendent is interested largely in efficiency. The day of romance is past in the back room of the country newspaper.

But in the front room, in the editorial offices, in the business office even, there abides the spirit of adventure that is incarnate in these marvelous modern times. Never before were there such grand doings in the world as we are seeing to-day. Screen the Great War from us, and still we have a world full of romance, full of poetry, full of an unfolding progress that is like the gorgeous story of some enchanter's spell. Where in all the tales of those "Arabian Nights' Entertainments" is anything so wonderful as wireless telegraphy, so weird and uncanny as talking over the seas without wires? What is "Cinderella" and her romance compared with the Cinderella story to-day—the story that tells us how the world is turning into her prince, shortening her hours of work, guaranteeing her a living wage, keeping her little brothers and sisters away from the factory and in

school, and pensioning her widowed mother that she may care for her little flock! How tame is the old Cinderella story beside this! And "Sinbad" is losing his load, too; slowly, as the years form into decades; "Sinbad" is sloughing off the old man of the sea. The twelve-hour day is almost gone, and the eight-hour day is coming quickly; the diseases and accidents of labor are falling from his shoulders, being assumed by his employer; his bank-savings are guaranteed by his government; his food is no longer poisoned; his tenement is ceasing to be a pit of infection; his shop is no longer a place of torture. And every day the newspaper brings some fresh and inspiring chapter of these great stories to their readers. Stories of progress are the magnificent tales of sorcery and wizardry that come gleaming in celestial light across the pages of our newspapers every day. And in our country papers we rejoice in them, because we know the heroes. We know Cinderella; she works in our button factory. We knew her father, who lived on Upper Mud Creek, and was a soldier in the big war of the sixties. We know Sinbad; he is our neighbor and friend. He is not a mere number and a wheel-tender to us. We played with him in the lower grades before he had to leave, when his father died, to support the family. We see Cinderella and Sinbad every day, and when we read of their good fortunes we feel kindly toward the paper that tells us of these fine things. We open the country paper and say, "How beautiful upon the mountains are the feet of him that bringeth good tidings!" And so we read it, every line. It is the daily chronicle of the doings of our friends.

Of course our country papers are provincial. We know that as well as anyone. But, then, so far as that goes, we know that all papers are provincial. How we laugh at the provincialisms of the New York and Boston and Chicago papers when we visit those cities! For the high gods of civilization, being jealous of the press, have put upon all newspapers this spell, that every one must be limited in interest to its own town and territory. There can be no national daily newspaper, for before it reaches the nation its news is old and dull and as clammy as a cold pancake. News does not keep. Twelve hours from the press it is stale, flat, and highly unprofitable. However the trains may speed, however the organization of the sub-

scription department and the pressroom may perfect itself, the news spoils before the ink dries, and there never may be in our land a cosmopolitan press. So the cities' papers find that they must fill with city news those spaces, that in a nation-wide paper should be filled with the news from the far corners of our land. Thus in every country paper we have the local gossip of its little world. And our country papers are duplicated on a rather grander scale in the cities. What we do in six or eight or ten or twelve pages in the country the city papers do in twenty or forty pages. What they do with certain prominent citizens in the social and criminal world we do also with our prominent citizens in their little worlds.

And in the matter of mere circulation, our American country newspapers are a feeble folk, yet they do as a matter of fact build their homes upon the rock. The circulation of daily newspapers in our cities—towns of over four hundred thousand—aggregate something over eleven millions. The other daily newspapers in the country circulate more than twelve millions, and the weeklies circulate twenty millions more, and most of these weeklies are printed in our small country towns. We have, therefore, a newspaper circulation of nearly thirty-four millions outside of our great cities, and only eleven millions in the great cities. At least so says our latest census bulletin. And the money we country editors have invested is proportionately larger than that our city brethren have invested.

But the beauty and the joy of our papers and their little worlds is that we who live in the country towns know our own heroes. Who knows Murphy in New York? Only a few. Yet in Emporia we all know Tom O'Connor—and love him. Who knows Morgan in New York? One man in a hundred thousand. Yet in Emporia who does not know George Newman, our banker and merchant prince? Boston people pick up their morning papers and read with shuddering horror of the crimes of their daily villain, yet read without that fine thrill that we have when we hear that Al Ludorff is in jail again in Emporia. For we all know Al; we've ridden in his hack a score of times. And we take up our paper with the story of his frailties as readers who begin the narrative of an old friend's adventures.


The society columns of our city papers set down the goings

and comings, the marriages and the deaths of the people who are known only by name; there are gowns realized only in dreams; there are social functions that seem staged upon distant stars. Yet you city people read of these things with avidity. But our social activities, chronicled in our country papers, tell of real people, whose hired girls are sisters to our hired girls, and so we know the secrets of their hearts. We know a gown when it appears three seasons in our society columns, disguised by its trimming and its covering, and it becomes a familiar friend. To read of it recalls other and happier days. And when we read of a funeral in our country newspapers, we do not visualize it as a mere church flight to see the grand persons in their solemn array on dress-parade. A funeral notice to us country readers means something human and sad. Between the formal lines that tell of the mournful affair we read many a tragedy; we know the heart-ache; we realize the destitution that must come when the flowers are taken to the hospital; we know what insurance the dead man carried, and how it must be stretched to meet the needs. We can see the quiet lines on each side of the walk leading from the house of sorrow after the services, the men on one side, the women on the other, waiting to see the mourning families and to be seen by them; we may smile through our tears at the uncongenial pall-bearers, and wonder what common ground of mirth they will find to till on the way back from the cemetery. In lists of wedding-guests in our papers we know just what poor kin was remembered and what was snubbed. We know when we read of a bankruptcy just which member of the firm or family brought it on by extravagance or sloth. We read that the wife of the hardware merchant is in Kansas City, and we know the feelings of the drygoods merchant who reads it and sees his own silks ignored. So when we see a new kind of lawn-mower on the drygoods merchant's lawn, we don't blame him much for sending to the city for it.

Our papers, our little country papers, seem drab and miserably provincial to strangers; yet we who read them read in their lines the sweet, intimate story of life. And all these touches of nature make us wondrous kind. It is the country newspaper, bringing together daily the threads of the town's

life, weaving them into something rich and strange, and setting the pattern as it weaves, directing the loom, and giving the cloth its color by mixing the lives of all the people in its color-pot—it is this country newspaper that reveals us to ourselves, that keeps our country hearts quick and our country minds open and our country faith strong.

When the girl at the glove-counter marries the boy in the wholesale house, the news of their wedding is good for a forty-line notice, and the forty lines in the country paper give them self-respect. When in due course we know that their baby is a twelve pounder named Grover or Theodore or Woodrow, we have that neighborly feeling that breeds the real democracy. When we read of death in that home we can mourn with them that mourn. When we see them moving upward in the world into a firm and out toward the country-club neighborhood, we rejoice with them that rejoice. Therefore, men and brethren, when you are riding through this vale of tears upon the California Limited, and by chance pick up the little country newspaper with its meager telegraph service of three or four thousand words, or, at best, fifteen or twenty thousand; when you see its array of countryside items; its interminable local stories; its tiresome editorials on the waterworks, the schools, the street railroad, the crops and the city printing, don't throw down the contemptible little rag with the verdict that there is nothing in it. But know this, and know it well: if you could take the clay from your eyes and read the little paper as it is written, you would find all of God's beautiful, sorrowing, struggling, aspiring world in it, and what you saw would make you touch the little paper with reverent hands.



# GEORGE WOODWARD WICKERSHAM

## THE AMERICAN LAW INSTITUTE

George Woodward Wickersham was born in Pittsburgh, Pennsylvania, in 1858, was educated in Lehigh and Pennsylvania Universities and began the practice of law in 1880. He was Attorney General in the Cabinet of President Taft. Mr. Wickersham has been a leader in many civic movements and is widely recognized for his public as well as his professional services. The following address was his presidential address before the American Law Institute in Washington, D. C., on April 29, 1926.

GENTLEMEN OF THE AMERICAN LAW INSTITUTE: It was with deep personal regret that because of duties overseas I found it impossible to be present at our last annual meeting. Upon reading the report of the proceedings of that meeting, and particularly the eloquent address of our honored Vice President, Judge Cardozo, delivered on that occasion, I realized that the loss was wholly mine and that you had been greatly the gainer by the substitution of the Vice President as your presiding officer. If it be true, as Jeremy Bentham said, that Sir William Blackstone first taught jurisprudence to speak the language of the scholar and the gentleman, it is equally so that Judge Cardozo has given it expression in the language of the poet, and has infused into the law the beauty of philosophy.

We are met to-day, the fourth time in this capital city, to take counsel together concerning our efforts to further and improve the great cause of justice. I always have thought the most adequate summary of the aim and object of government is that of the Preamble to the Constitution of the United States:

to form a more perfect union, establish justice, ensure domestic tranquillity, provide for the common defense, promote the general welfare and secure the blessings of liberty to ourselves and our posterity.

The practical problems of the moment of the adoption of the Constitution, put the necessity of a more perfect Union of the states and their peoples first in the thoughts of the framers, but hard on the heels of that impelling need came the predominant thought of establishing justice, to the end that the blessings of liberty might be secured for themselves and their posterity. To-day, your current thought is filled with insistent demands for justice; more certainty in our law; better adaptation of the law to the present needs of society; less delay in the administration of the law. A recognition of such needs three years ago led to the formation of this institute.

The Committee on the Establishment of a Permanent Organization for the Improvement of the Law, in its report to the meeting held in Washington on February 23, 1923, when this organization was formed, frankly admitted the existing popular dissatisfaction with the administration of justice, stating that "the opinion that the law is unnecessarily uncertain and complex, that many of its rules do not work well in practice, and that its administration often results, not in justice, but in injustice, is general among all classes and among persons of widely divergent political and social opinions."

The impelling force which made the Washington meeting and the organization of this institute possible, Director Lewis truly has said, in his foreword to the first volume of our proceedings, "has been the growing feeling among the members of the legal profession that the profession owes a duty to the public to improve the administration of justice." Since we embarked in the definite work undertaken by this institute, many efforts have been prosecuted in other directions, all tending to remove the reproach to the profession involved in the general recognition of the unsatisfactory character of our law and its administration.

The work of this institute was planned with careful regard to the limitations of the problem we should undertake, and we have studiously refrained, except in one instance to be referred to later, from being drawn outside of our chosen sphere of activity. There are many other things which must be done before the state of our law and its enforcement becomes what

it should be. Much is being done by other agencies than ours. The Federal judicial forces have been mobilized and the administration of Federal justice made more efficient through the operations of the Judicial Council presided over by the Chief Justice of the United States, under legislation largely promoted by him. In a number of states, Judicial Councils have been formed pursuant to law, following the suggestion which our honored Vice President, Judge Cardozo, made a few years ago in his now famous address, "A Ministry of Justice"; Councils charged by law with the duty of systematic study and criticism of the functioning of the judiciary of the respective states, and the recommendation of improvements which may be effected by legislation or rules of court. The better expression of statutory law by means of official legislative drafting bureaus is evident in the improved clarity of some of our modern state legislation. Little progress unfortunately seems to have been made in the direction of improving the educational qualifications required for admission to the Bar, and the observations in the report of the Committee on the Establishment of a Permanent Organization for the Improvement of the Law above referred to that—"Not a little of the existing uncertainty in the law is the price we are paying for low requirements of legal education preparatory to admission to the Bar and for judges often elected for short terms and chosen for reasons unrelated to their legal capacity"—passes unheeded.

It has been often stated with accuracy that in no other country than ours are men licensed to practice law with such meager educational requirements. Until this fact is frankly recognized by our legislatures and courts, the popular demand for better and more certain justice will largely continue to be unrealized.

In our own chosen field, the year past has been one of great activity, as you will readily perceive when you come to consider the volume of material which has been sent out for your consideration in advance of this meeting and which you will be invited to discuss. If, as Judge Cardozo said at the last annual meeting, there had then been "at least a brave beginning," of our undertaking this year it may truthfully be said there has been a notable advance. The Director will give you the

details of the number of meetings of the reporters with their critics and of the extent and nature of the work done. When the Council assembled on December 16th last for a three-day session, it found itself confronted with an undertaking of no small magnitude, and of no easy dispatch, in the consideration of the fruits of the labors of the scholars who for a twelve-month previously had been toiling in the field assigned to them by the Council's directions. During those three days, however, the members of the Council discussed with such fullness as time would permit, the reports in the fields of Contracts, Torts, Agency and Conflict of Laws, respectively, and finally, in order that the work of the reporters and their advisers might not unduly suffer from criticism of the moment, the Council referred each one of the reports under consideration back to the reporter for discussion with a subcommittee of three members of the Council, with instructions to report to the executive committee, which was authorized to transmit the tentative drafts to the members of the institute for consideration at this annual meeting, with a view to suggestion and criticism. Accordingly, a Committee on Torts was named, composed of the Honorable George W. Wheeler, as Chairman, and Messrs. Owen J. Roberts and James P. Hall, as members; a Committee on Agency, of which Major Edgar B. Tolman was Chairman, and Messrs. William Browne Hale and Henry M. Bates members; a Committee on Conflict of Laws, of which the Honorable George W. Alter was Chairman and the Honorable Benjamin N. Cardozo and Honorable Arthur P. Rugg members, and a Committee on Contracts of which the Honorable Nathaniel Matthews was Chairman and the Honorable Learned Hand and James Byrne members. The reports which have been sent to the members of the Institute for their consideration and for discussion at this meeting have been transmitted through the executive committee after conferences between the reporters and some of their advisers and these respective subcommittees. The material which is submitted to you therefore represents the combined efforts and the matured comment of a number of minds, and it is to be hoped that in their criticism members of the institute will have in mind the fact that every sentence, indeed every word in these various drafts is the result of care-

ful, critical and analytical thought and deliberate studied expression.

In connection with the consideration of the various draft restatements, the Council gave very careful thought to the question whether or not the restatements should be accompanied by "treatises," in the accepted sense of that term, or by such brief commentaries as might appear to be necessary for the elucidation of the text of the restatements. Bearing in mind that the great objective of the work is the clarification and simplification of the law, it would seem most undesirable that the restatement should be merely in the nature of a syllabus, to be accompanied by bulky treatises, or text-books. On the other hand, we should recall the admonition given in the report of the Committee on the Establishment of a Permanent Organization for the Improvement of the Law, to which I have already referred, that the statement of principles to be put forth should be much more complete than that found in European continental codes. The American courts, that report pointed out, "though always in the position of being able to change and modify the common law, practically, because of the detail in which the law is set forth in prior decisions and its respect for such precedent, has usually a far narrower field" than the European courts "for the exercise of discretion." The authors of the report expressed the belief that "any restatement of our law to be of practical use should follow this characteristic of our law, and, therefore, the principles of law should be set forth with a fullness made possible by the care with which rules pertaining to the application of more general principles have been considered in the decisions of our courts." If this counsel as to the nature of the restatement be followed—as I believe it has been followed in the drafts before us, it would seem that to accompany the restatements with bulky text-books, would to a large extent impair, if not wholly undo, one object of the restatement, namely, the reduction of the bulk of literature necessary to be consulted by the practicing lawyer. Without, however, determining this question as an ultimate matter, the Council did decide that in submitting the tentative drafts of restatements to the members of the institute and the annual meetings, there should be transmitted with the restatements, or

as nearly thereafter as practical, such commentaries as may facilitate the consideration of the restatements, and that where there is a conflict in the decisions under a section of the re-statement, there shall be furnished with it an explanation showing where the actual difference exists in the authorities, and giving the reasons for the adoption of the section as expressed in the restatements.

Among the most interesting results of the work of the institute up to the present time has been the increased interest in its progress on the part of the various state and local Bar associations. Of equal, or perhaps even greater importance, is the increasing interest manifested in our efforts by the Law Schools. Drafts of the restatements are being sent to the Law Schools for study by teachers and scholars. By these means we are securing the interest in our work on the part of the men to whom largely we must look for its future accomplishment. Coincidentally, some of our leading Law Schools are organizing for advanced study and research, and our institute may anticipate greater and more valuable coöperation with them through such better, more scientific organization. One scarcely can exaggerate the value of such assistance. It is the logical development of the preliminary studies and action by the associated Law Schools, out of which came the inspiration for our work.

Far sooner than the founders of the institute had anticipated, an active, widespread, critical interest in our work is being exhibited in all parts of the country, and from many sources are coming increasingly valuable suggestions which encourage and perhaps justify the hope that our accomplished work may meet with the uniform approval of the profession at large. At all events it is presently true that it has greatly stimulated interest in the study of the common law and in the effort to unify its expression in the different jurisdictions.

In one respect only has the institute ventured outside of the line of work to which it dedicated itself on its organization, and that is in undertaking the preparation of a model code of criminal procedure. Those of you who attended the last annual meeting will recall the report submitted to that meeting that the Laura Spelman Rockefeller Foundation had generously ap-

appropriated the sum of \$20,000 annually for three years to the institute to meet the expenses of the preparation of a code of laws and court rules relating to criminal procedure. You will recall the reports made to the Council by the Committee appointed to make a survey and statement of the defects of criminal justice, of which the Honorable Herbert S. Hadley was Chairman, and Messrs. William E. Mikell and John G. Milburn members. That report led to the appropriation just mentioned, and the action of the Council of the Institute regarding the matter reported to the institute at its last annual meeting. The Council on May 2d, 1925, authorized the executive committee to invite additional persons to act with them in preparing a plan of work for the preparation of the proposed model code, and action having been taken under this resolution, a further report was prepared by this committee, which is printed in the third volume of the Proceedings of the Institute, at pages 499-524, which was unanimously adopted by the members of the committee whose names are signed thereto. The resolutions recommended by that committee, printed on pages 523-524 were adopted, a Committee on Criminal Procedure duly constituted, and Messrs. William E. Mikell and Edwin R. Keedy were appointed reporter and associate reporter, respectively, for criminal procedure, for the remainder of the current year and for the year 1926. This work is now going forward, and the Council hopes it may result in a useful contribution towards the simplification of our criminal procedure, the necessity for which is widely recognized. We hardly could have escaped undertaking this work. Popular thought at the present time is more immediately concerned with the criminal law and its enforcement than with the civil law. The reports in the daily press of crimes of violence against the person and against property have inflamed the popular imagination to a point which has compelled action in many directions. More drastic penal laws are being enacted by legislatures; increases are being made in the number of judges of our Criminal Courts; some increases in police forces. "Surveys" or studies of the conditions responsible for this menace to the peace, quiet and safety of our communities are being made; Crime Commissions, national and local, have been formed. Our own contri-

bution to the effort to meet this great fundamental problem of conserving the peace and security of the people, may be slight, but it will be our endeavor to make it valuable to the extent of our undertaking. The maintenance of justice, the ensuring of domestic tranquillity and the blessings of liberty can be realized through the efforts of no one agency alone; they depend upon the mental and moral attitude of the people. We can perform our part, and make a great valuable contribution to the common welfare, but those "unalienable rights," among which are "life, liberty and the pursuit of happiness," to secure which our governments, national and state, were instituted, can be preserved only so long as our people continue to love liberty, to respect the rights of each other, and to realize that upon themselves, and not only upon their neighbors, rests the duty of that vigilant watchfulness of the public interest without which liberty must perish.

# JOHN HENRY WIGMORE

## ENLISTMENT IN THE CHRISTIAN MINISTRY

John Henry Wigmore, dean of the Faculty of Law, Northwestern University, was born in San Francisco in 1863. He is the author of "Treatise on Evidence" and other authoritative works on law. He was Colonel on the Staff of Judge Advocate General U. S. A. during the War and was awarded the Distinguished Service Medal. The address which follows was given to ex-service men upon receiving diplomas in Theology from Garrett Biblical Institute, at Convocation June 4, 1919.

THERE never was a war in which a man could join with more certainty that the cause was a just one than the Allies' cause in the World War.

There never was a war more plainly standing out in history as a war in defense of high ideals.

There never was a war for which a man could be prouder to have done his part.

But no earthly arbiter could dare or would care to discriminate the degree of merit for each one who helped in the grand effort. Those who gave the most will not return to us here. Those who had the purest will to sacrifice were often held back by unsurmountable barriers. Four millions in all put on a uniformed official garb; but many more millions worked at useful posts without a uniform.

Yet the uniform, the badge of organized war service must have had some special meanings. It signified an *enlistment*; and the meanings of enlistment have perhaps an application in organized religious service.

The first meaning is that of *total negation of self-will*, for the sake of the whole. Upon enlistment a man puts aside entirely his own will and every personal interest, home, property, career. He surrenders his will, for the good of the service, to become a

mere unit in the great mass; for the mass-will wielded that organized irresistible force which alone could conquer.

Without this initial absolute surrender of the individual will, we can never organize a real army.

Can we not transfer this lesson to organized religious force, that army of devoted ministers which, in times of physical peace, strives to combat successfully the widespread forces of moral evil?

If we are ever to dream of effecting in the moral battlefield an overthrow as complete as the one in which you have just helped, must not every one of you make this complete surrender of his personal will?

The other meaning of enlistment is that of an *irrevocable pledge*. Every enlistment signified a promise to stay in service for the duration of the war. Could you drop out, whenever the time came that your captain showed a disagreeable temper? Or that your work became tedious drudgery? Or even that bad news arrived of illness and distress in your family? That was and is the most real difference between civilian and military service. During one month, in our capital city, while 6000 civilian war workers arrived, 3000 other civilian war workers left it; they had changed their minds and they were free to go.

But the nation could not even play at war, if that were permissible in the Army. In the entire 4,000,000 members of the Army, there were only 3000 sentences for desertion during the whole war.

The men who enlisted *had* to stay by their fellows. The enlistment was a binding pledge to see them through.

The civilian who has not signed the muster roll, and has never felt that bond holding him in his place, can never truly experience the deep meaning of enlistment.

You *know* what that meaning is. And if it is good and necessary for organized war-service in the physical battlefield, is it not even better and more necessary for organized religious service in the moral battlefield? *You* are enlisted for that service. *You* are pledged and bound to see it through.

These are two of the meanings of that special war-service which the School recognizes in these certificates of service to-day delivered to you.

# RAY LYMAN WILBUR

## THE PROLONGATION OF LIFE

In the Hoover Cabinet, 1929 to 1933, Dr. Ray Lyman Wilbur, on leave of absence from the presidency of Stanford University held the post of Secretary of the Interior. He was born at Boonsboro, Iowa, April 13, 1875, was graduated from Stanford University in 1886 and later from Cooper Medical College, supplementing his training by study in Europe. He became Professor of Medicine at Stanford in 1909 and President in 1916. In addition to his long service as an educator he has held many public positions, having to do with such matters as health, social problems and conservation. The address which follows was given over the NBC network on February 18, 1935. It is included by permission.

For the first time in the history of the nation the care and protection of old men and old women has become of national interest. There has even been a suggestion that the older people are severe competitors for the younger. One asks whether there are more old people than there used to be, or whether the economic hazards of our civilization have increased the difficulties for them and others insofar as a livelihood is concerned.

The effect of public health measures has been to decrease the infant death rate and that of children. Fewer young people are dying; but the death rate for the old is high, if not higher, than it used to be. In other words, we have saved life in the lower years, but our present preventive health measures are not effective in late maturity. While we have controlled the infectious diseases and understand nutrition much better, the diseases of the vital parts of the body—such as the heart and blood vessels, the kidneys, and the vessels of the brain—are not declining. Many deaths in all communities are taking place in the period that well can be called the “prime of life” insofar as the ability to serve the community is concerned.

Statisticians tell us that heart disease, Bright's disease and cerebral hemorrhage curtail the expectation of life by about four years.

We have been hoping that by a better control of the acute infectious diseases, with their resultant damage to the vital organs, we would be able to note a mortality reduction. It may well be that this will show up in later years; but it is undoubtedly true that our methods of living have put the body under strain so that damage to the heart, the kidneys, and the blood vessels is apt to come at an earlier period than need be.

There are many hopeful factors. Through research we are getting a better idea of the causation of the degenerative changes of the vital body organs, and we are learning better methods of controlling them when once they are started. At the best, though, this is a losing game. Any substantial prolongation of life would have to come in the prevention of the diseases and the processes that lead to the degeneration. When cells and organs are damaged they often lack reparative capacity, particularly when the body is mature. The closer relationship between organized industry and preventive medicine, the development of safety measures, the sanitation of buildings and shops, will undoubtedly give us reward in the prolongation of life in the years ahead. In tuberculosis we have had outstanding results. If we can through early diagnosis reduce the number of deaths from cancer, or if by any great fortune we should solve the question of its cause and cure, we would change our hypothetical life tables materially.

Throughout the world it has been noticed that when elderly persons are placed on a secure annuity under wholesome conditions they live much longer and are more contented. Essentially the problem of the prolongation of life is to prevent disease, to teach the adequate care of the body and the avoidance of narcotic drugs and bad habits, to instruct each individual in hygiene and the proper care of himself, to develop in industry and trade conditions for the proper care of workers, and then to have such conditions of economic security developed that people who have reached advanced life need not worry about the necessities required from day to day.

Health measures do much to help the aged, but heredity

seems to do more. Better parents make for better children, and a long span of life seems to carry through on an hereditary basis. It is as important to be well as to live long. Fortunately today we have many lively and vigorous men and women at seventy who are active and happy under the favorable life conditions of the present, and who owe their health to public health measures and to good personal hygiene.

Life has been held so cheap during much of the world's history that it is hard for us to realize that life and health are our greatest and only real possessions. Any effort to maintain them is sound economics, as well as making for happiness, comfort, and other deep human satisfactions. With fewer babies dying, more children surviving, and more people living longer, there is a new vigor among our people which should mean much in the advance of the human family.

# FRED A. WIRTH

## THE FOUR-MINUTE MAN

During the War our four-minute men constituted a real profession. The speech which follows shows that the four-minute man represented all the professions. This speech was awarded the prize in the Illinois state-wide contest for the best four-minute speech on the subject, "The Part of the Four-Minute Men in the War."

I AM a Four-Minute Man.

I am the Mouthpiece of Democracy.

I make men THINK.

I wield the most potent power of Human Endeavor—THE SPOKEN WORD.

The Blind do not read—the Ignorant cannot read—the dullard will not read—but ALL MEN must harken to my message.

My appeal is universal—elemental—primitive.

I was a Roving Shepherd. I came back to my tribe and told of a Far Country, green with pastures. My message reached Abraham. He led his tribe forth and founded a great people—Israel.

Again, I was a Nomad Slave. I returned to my people, groaning under the fetters of Pharaoh, and told of a beautiful land beyond the desert. My tidings came to the ears of Moses and he led his Chosen People to the Promised Land.

Again, I was a Wandering Monk. To the High and Low, I brought the tale of the Holy Land, suffering under Moslem oppression. My appeal inspired the Great Crusade.

Again, I was a Wayfaring Mariner, spreading strange rumors of unknown lands, beyond the seas. Columbus heard my message—set sail and discovered a New World. Thus it is, that the destinies of Humanity have been swayed and directed by

Reprinted from the *Quarterly Journal of Speech Education*, 1919.

the SPOKEN WORD. To-day, my appeal is more compelling—more potent—more universal than ever.

I am a Stoker for the Great Melting Pot. In four minutes, I breathe the flame of true American Patriotism to people of all kinds and creeds.

I am a Soldier. I fight German propaganda, intrigue, falsehoods, treachery.

I am a Teacher. I set forth in 240 seconds, lessons in loyalty, duty, thrift, conversation, coöperation.

I am a Herald. I sound the clarion call for men to serve their country. I summon help for the Y. M. C. A. and the Red Cross.

I am a Salesman. I sell Liberty Bonds and Thrift Stamps.

I am a Preacher. Using the text that all men are equal, I invoke Loyalty, Patriotism, Devotion.

I am a Doctor. I give four-minute treatments for disloyalty, un-Americanism, selfishness, laziness. I eradicate apathy and listlessness, and instill "pep" and enthusiasm.

I am a Lawyer. Before a jury of all races and creeds, I indict old world standards of caste, class distinction, privileges, and false pride.

I am an Efficiency Engineer. I plead for the elimination of waste and carelessness and the practice of economy and conservation.

I am an Optimist. I have faith in the triumph of Truth and Right over Might and Brute Force.

I am a Prophet. I predict the doom of Despotism and Autocracy and the triumph of Liberty and Democracy.

I am a Lover. I love the Stars and Stripes. I love to think that this nation under God is having a new Birth of Freedom and that Government of the people, by the people and for the people shall not perish from the earth.

I am the Mouthpiece of Democracy. I make men THINK. I am a Four-Minute Man.

## HANS ZINSSER

### A SCIENTIST'S VIEW OF THE MEDICAL CENTER

Hans Zinsser was one of the most brilliant bacteriologists of the country and a professor in the Harvard Medical School. This address was delivered at the mass meeting held in Carnegie Hall, April 30, 1925, opening the public campaign to complete the fund for building the first unit of the great Columbia-Presbyterian Medical Center. He died in 1940.

To me has been assigned the grateful task of representing those whose diligence and skill will finally determine whether or not this plan is wisely made. And it would seem to me an augury of hope that one of us, the humble workers in the hives of science, should have been asked at all to speak on this occasion. It seems to be the spirit of our times that great careers may be most easily achieved by those who manage that which others do. We are an organizing race. We are "efficienced." Unless we beware, science and art will share the fate of industry. Teachers' colleges will train a standard brand of managers and deans; diplomatized trustees for large endowments, whose opinions will be packed in neatly tight conclusions, alike as soda biscuits. Coöperative research will congeal the sap of young ideas in their cocoons; and legs will be cut off on moving platforms, a surgeon every yard on either side, the patient leaving at the farther end, walking himself on his new wooden leg. Professors will be kept in full time cages, broadcasting standard discourses and fed on nuts and vitamins (bought at wholesale prices), amounts weighed out according to the subject. Students, although when shoved in at the bottom, may show some slight irregularities, will come out at the top all evened out, well baked and stamped, alike in weight and taste, whether from here, the east, the west, the south; except Chicago—forced

by competition, will give a Ford sedan with all diplomas. Unless we beware, these things may come about—but, as I said before, we are bewaring.

But that which makes bewaring difficult is the inevitable growth to large dimensions with which all institutions are beset whose purpose it is to serve great cities. The difficulty lies in limitation without restricting usefulness; to build a structure adequate in scope and opportunities which shall not be machine-like; in which imagination and originality will not be made to serve as cogs and levers.

It is the effort to accomplish this which has so long delayed development. Whether it is accomplished now—frankly, is doubtful. But at this stage, at which the growing structure is taking form, confusing by the multitude of its coördination; when so much emphasis seems placed on organization, it is important to remember that, so far, all that has been done has had the guidance and the final judgment of those who are professionally trained. And since organization there must be, there could be no better augury toward the avoidance of that over-organization which I so much dread than the fact that throughout these years of preparation the President of the University, Managers of the Hospital, benefactors, executives and architect, with splendid self-restraint, have followed instead of leading, have adjusted, readjusted and adapted according to the gradual definition of purely professional requirements.

Moreover, may I clearly convey to you that this has been a slow development. The threshold of final accomplishment on which we stand to-night has not been gained with ease, nor rapidity. It has been the dream of three professional generations of New York. Those who are to-day bending all their efforts—indeed, dedicating their lives to the performance of this service have taken up the task given into their hands by their predecessors: Sands, Delafield, MacLane, McBurney, the Janeways, Prudden, Bull, Herter, Blake, Holt, Huntington and Lambert and many others, dead and living, citizens of this community, members of this faculty, men who have made the honorable medical traditions of New York, devotedly working from generation to generation toward the end that some day this city might possess a school of medicine intellectually

secure by union with a great university, joined by permanent ties to the indispensable material of a great hospital.

It is not an institution for which these men have labored. The institution is merely the embodiment of an idea, of a principle, conceived for the performance of a service.

It need not, therefore, be impressed upon you that this project does not take origin in impulse for expansion. The principle on which it is conceived is the inevitable consequence of increasing knowledge. A hundred years, or even fifty years ago a plan like this could not have been projected nor, had it been, would it have served a purpose. To-day, not only is it wise, but such a scheme, alone, can serve completely to fulfill our obligation.

Medicine, to-day, concerns itself with much besides the healing of the sick. Broadly conceived, it justly may be called the science of human welfare. Sickness and death, and grief which stalks behind them, are but the final episodes of a sequence that must be scrutinized from its beginnings. To cure, assuage, and, most of all, prevent, medicine must seek the causes whence they spring; must search the laws that govern living things; draw from the wells of all the sciences; and, stretching outward, deeply penetrate into the lives of men, their habits, occupations and amusements; birth, childhood, marriage and heredity; the lives of nations, cities, families; the scope of medicine has become the natural history of mankind.

To solve the problems which this task implies, medicine has become a web of intricate branchings. Without the basic sciences, it would dry up and wither. Biology and chemistry and physics supply the sap from which it grows. Without new blood and inspiration constantly supplied from the university laboratories, pathology, physiology, bio-chemistry and the other divisions of medical investigation would soon be lost in a wilderness of mysteries, children without a mother. And without these, again the clinics of medicine and surgery would mark time where they stand. However practical a therapeutic measure, however simple a method of prevention, if we seek far enough we often find that each short forward step has been achieved by long and patient toil of many men working in many sciences, none but the later ones seeing the purposes

or the end, devotedly striving for the pure love of knowing.

Thus, the return of the medical school to the fold of the university, an ancient tradition from which it should never have been permitted to depart, is neither a new idea nor one of pure organization, but constitutes its very breath of life.

But, after all, the purpose of our efforts, the ultimate material, is man.

And while, on the one hand, a medical school separated from the university would be an incomplete and drifting thing, these two without a hospital would be largely ineffective to fulfill their ultimate purposes. The entire complex structure, from the basic laboratories through the medical sciences, focuses at the bedside. Here that which has been learned can be applied. Here, in the wards and clinics, the coöperative efforts of scientific study can be given into the hands of those experienced in the observation of the sick; here the potential energies of experiment and thought become kinetic and are transformed into the actions which were their purposes. The loose collaboration of other days is no longer adequate. Only the closest administrative interlocking can assure that community of interests—interchange of ideas, contact of workers from many fields and permanence of collaboration by which the best work and service can be rendered.

But the importance of the hospital is a far broader one than appears from its internal activities alone. It is through the channel of the hospital that this energy flows into the community. By the many thousands who pass through its wards and outpatient clinics, by its medical externe services; by its follow-up of discharged patients; by the young men and women that, coming to it from the university and the school, pass through it into the world, and, most of all perhaps, by its constant contact with the medical profession of the city, all that it produces, all that it touches, reduced to the simplest terms of human needs, is spread broadcast among the people.

There is one great feature still of such a union which I have yet to mention. It is the bearing it must have upon the future of medicine in America by the training of physicians. So far, in this, New York has lagged behind. The principles for which we plead have been achieved, perhaps in slightly different form,

in other cities and other countries than our own. Without their establishment New York will fail to profit by all the great advantages of wealth and concentration of material which should give it leadership.

Size and magnificence and wealth are not the measures of a city's greatness. The monuments by which its growth is measured are those of its enlightenment, the freedom with which its reasonable laws endow its citizens—its permanent contributions to the future. And of these last the greatest ones are those it makes to education. In medical education New York has outgrown what she possesses. For medical education to-day is far more than the mere development of practicing physicians.

They are the outposts in the struggle against misery and suffering and death. But the information gained by medicine influences economic, sociological and industrial conditions. It infiltrates the destinies of individuals, families, communities and nations. It guides the intercourse of men, it modifies legislation. In all these directions capacity for service must be developed. If knowledge is available to solace and console, failure to train men in it becomes an inexcusable omission. Medicine, therefore, is a career of public responsibility of many branches, none of which may be neglected, all of which must be included in any complete scheme of education. And he who enters this profession, is by the very nature of the information he possesses, a public servant. He must be shown his opportunities for service. His training must be the broad and comprehensive one that only such united efforts as those I have described can give. He must be shown the manifold directions in which he may embark upon the great adventure, the many opportunities for devotion, labor and risk in the conquest of disease and death and the defeat of sorrow, such as the history of past times has never offered.

Each fact that is added to his equipment increases his obligation, for it enhances his power not only to ease pain, but to foresee and prevent. He must be given the wisdom that will make him tolerant, the pity that will keep him human, the humility that alone can save him from discouragement.

The opportunities have grown, and with them the responsi-

bilities. Too long the means of amply fulfilling them have been withheld. What is projected here to-night is nothing more than the necessary development which progress has forced upon these institutions. They have no choice but to strive to remain equal to this growing task which truly they hold in trust for civilization. University, school, and hospital—together they can perform it—together they will—whether now or later. What of details, differences of opinion as to minor things? The principle is sound; the road is clearly marked. It must be followed to the end and will be. For the high purposes to be achieved will not allow them to falter, and it is not the spirit of this great city to let them fail.







## AIDE-de-CAMP'S LIBRARY

---

*Accn. No.*...68.....

1. Books may be retained for a period not exceeding fifteen days.